

# Exhibit 117

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESALE ) MDL No. 1456  
PRICE LITIGATION ) Civil Action No.  
 ) 01-12257-PBS  
 )  
THIS DOCUMENT RELATES TO: )  
 )  
United States of America, ) Hon. Patti Saris  
ex rel. Ven-a-Care of the )  
Florida Keys, Inc., v. )  
Abbott Laboratories, Inc., )  
and Hospira, Inc. )  
CIVIL ACTION NO. 06-11337-PBS )

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESALE ) MDL No. 1456  
PRICE LITIGATION ) Civil Action No.  
 ) 01-CV-12257-PBS  
 )  
THIS DOCUMENT RELATES TO: )  
 ) Judge Patti B. Saris  
State of Arizona v. Abbott )  
Labs., et al. )  
Civil Action No. 06-CV-11069-PBS )

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ORAL AND VIDEOTAPED DEPOSITION OF  
BRUCE E. RODMAN  
August 29, 2007

Volume 1

HIGHLY CONFIDENTIAL

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FREDERICKS-CARROLL REPORTING

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1 UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

2

3 IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESAL ) MDL No. 1456  
4 PRICE LITIGATION ) Civil Action No.  
5 ) 01-CV-12257-PBS  
6 )  
7 THIS DOCUMENT RELATES TO: ) Judge Patti B. Saris  
8 ALL CASES )  
9 \*\*\*\*\*

10 UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

11

12 IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESAL ) MDL No. 1456  
13 PRICE LITIGATION ) Civil Action No.  
14 ) 01-CV-12257-PBS  
15 )  
16 THIS DOCUMENT RELATES TO: )  
17 ) Judge Patti B. Saris  
18 State of California, ex rel. )  
19 Ven-A-Care v. Abbott ) Magistrate  
20 Laboratories, et al. ) Judge Marianne Bowler  
21 Cause Nos. 03-cv-11226-PBS )  
22 \*\*\*\*\*  
23 NO. D-1-GV-04-001286  
24 THE STATE OF TEXAS ) IN THE DISTRICT COURT  
25 )  
26 ex rel. )  
27 VEN-A-CARE OF THE )  
28 FLORIDA KEYS, INC., )  
29 Plaintiffs, )  
30 )  
31 VS. ) TRAVIS COUNTY, TEXAS  
32 )  
33 ABBOTT LABORATORIES INC., )  
34 ABBOTT LABORATORIES, and )  
35 HOSPIRA, INC., )  
36 Defendant(s). ) 201ST JUDICIAL DISTRICT  
37 \*\*\*\*\*

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1 ORAL AND VIDEOTAPED DEPOSITION OF BRUCE E. RODMAN,  
2 produced as a witness at the instance of the  
3 Plaintiffs, and duly sworn, was taken in the  
4 above-styled and numbered causes on the 29th of  
5 August, 2007, from 8:47 a.m. to 4:15 p.m., before  
6 CYNTHIA VOHLKEN, CSR in and for the State of Texas,  
7 reported by machine shorthand, at the offices of  
8 Stetler & Duffy, LLP, 11 S. La Salle, Suite 1200,  
9 Chicago, Illinois, pursuant to the Federal and Texas  
10 Rules of Civil Procedure and the provisions attached  
11 previously.  
12  
13  
14  
15  
16  
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25

Page 4

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32 HOSPIRA, INC.:  
33 Ms. Tara Fumerton  
34 Jones Day  
35 77 West Wacker, Suite 3500  
36 Chicago, Illinois 60601-1692

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1 FOR THE WITNESS:  
2 Mr. David J. Stetler  
3 Stetler & Duffy, Ltd.  
4 11 South LaSalle Street, Suite 1200  
5 Chicago, Illinois 60603

6 ALSO PRESENT:  
7  
8 Mr. Ben Stanson, Videographer  
9  
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1 THE VIDEOGRAPHER: Please stand by.  
2 This is Ben Stanson representing Complete Litigation  
3 Support out of Austin, Texas. I'm the operator of  
4 this camera. This is the videotaped deposition of  
5 Bruce E. Rodman as being taken pursuant to Federal  
6 Rules of Civil Procedure on behalf of the plaintiffs.  
7 We are on the record on August 29th,  
8 2007. The time is 8:47 a.m. as indicated on the video  
9 screen. We're at 11 South La Lasalle Street in  
10 Chicago, Illinois. This case is captioned in regards  
11 to Pharmaceutical Industry Average Wholesale Price  
12 Litigation, MDL Number 1456, Case Number 01-12257-PBS.  
13 Will the attorneys please identify  
14 themselves for the video record.  
15 MS. ST. PETER-GRIFFITH: Ann  
16 St. Peter-Griffith, United States Attorney's Office  
17 for the Southern District of Florida on behalf of the  
18 United States.  
19 MS. MOORE: Margaret Moore on behalf of  
20 the State of Texas.  
21 MR. FOOTE: Tim Foote, Deputy Attorney  
22 General, California.  
23 MS. FUMERTON: Tara Fumerton appearing  
24 on behalf of the defendants Abbott Laboratories,  
25 Abbott Laboratories, Inc. and Hospira, Inc.

1 MR. STETLER: And Dave Stetler for the  
2 witness.  
3 THE VIDEOGRAPHER: Thank you. The court  
4 reporter today is Cindy Vohlken, also with Complete  
5 Litigation Support. Will you please swear -- I'm  
6 sorry, with a different court reporting agency. Will  
7 you please swear in the witness.  
8 (At this time the witness was sworn)  
9 THE VIDEOGRAPHER: Thank you. You may  
10 proceed.  
11 BRUCE E. RODMAN,  
12 having been first duly sworn, testified as follows:  
13 EXAMINATION  
14 BY MS. ST. PETER-GRIFFITH:  
15 Q. Good morning, Mr. Rodman. Can we start today  
16 by having you state your full name with your middle  
17 initial?  
18 A. It's Bruce E. Rodman.  
19 Q. And what is your address, Mr. Rodman?  
20 A. 1521 Juliet Lane in Liberty Bell, Illinois.  
21 Q. Sir, we're here today pursuant to a subpoena  
22 and a deposition notice. What did you do to prepare  
23 for today's deposition?  
24 A. I met with my attorney after a telephone call  
25 or two last week. I reviewed my notes from my

1 attorney meeting on the way on the train down this  
2 morning and I guess that's about it.  
3 Q. Okay. Now, the subpoena that was sent you by  
4 the United States and I believe by the State of  
5 California requested some documents.  
6 A. Uh-huh.  
7 Q. Did you search for documents?  
8 MS. ST. PETER-GRIFFITH: Go ahead.  
9 MR. STETLER: Keep going.  
10 Q. (BY MS. ST. PETER-GRIFFITH) Did you search  
11 for documents in response to the subpoena?  
12 A. Yes, and they've been submitted.  
13 Q. When --  
14 MR. STETLER: Speaking of the documents.  
15 MS. ST. PETER-GRIFFITH: Oh, good.  
16 Q. (BY MS. ST. PETER-GRIFFITH) Did you -- are  
17 these documents at your -- at your home?  
18 A. Yes.  
19 Q. Okay. And the documents that you provided  
20 pursuant to the subpoena, which I will represent come  
21 in two batches. The first is -- were hard copies of  
22 documents and one of those documents was withheld on  
23 the basis of privilege asserted by Abbott and they are  
24 Bates stamped BR 00001 to 05519. I know they were  
25 Bates stamped after you produced them, but, sir, does

<p style="text-align: right;">Page 10</p> <p>1 it sound right that you produced approximately 5500 or 2 5520 documents in hard copy form? 3 A. In hard copy, not on the CD that you -- 4 Q. In hard copies, yes. 5 A. You know, I didn't count them. 6 Q. Okay. That's fine. 7 A. So I can tell you it was two boxes worth. 8 Q. Okay. Well, we'll have you identify them 9 shortly. And then additionally you produced two CDs 10 of documents, correct, sir? 11 A. Yes. 12 Q. Okay. And was that -- were those -- was that 13 about 38,340 pages of documents? 14 A. I -- I -- I have no idea -- 15 Q. Okay. 16 A. -- on that. 17 MS. ST. PETER-GRIFFITH: Can we just all 18 agree that we have documents that Mr. Rodman produced? 19 The first production was BR 00001 to 05519? 20 MR. STETLER: Yeah. Not only can we 21 agree, I think I can affirmatively say that he 22 produced the two documents (sic) to me and my law firm 23 and we had our people here send it out to be 24 duplicated. Those are the right numbers, both with 25 respect to the CDs and with respect to the hard copy</p>	<p style="text-align: right;">Page 12</p> <p>1 marked as one exhibit? 2 MS. ST. PETER-GRIFFITH: The two CDs are 3 being marked as one exhibit. And I assume that they 4 do not contain the five documents that Abbott is 5 asserting privilege over. 6 MS. FUMERTON: We don't have any 7 objection to marketing it, it's just with the general 8 caveat that this is an accurate representation. So to 9 the extent there's anything that is in error on there, 10 we will raise that later. 11 MS. ST. PETER-GRIFFITH: That's fine. 12 That's fine. Understood. I -- we burned the 13 documents and the CDs as they were produced, so ... 14 MS. FUMERTON: Okay. 15 Q. (BY MS. ST. PETER-GRIFFITH) Sir, before we 16 get to the documents, which we're going to spend a lot 17 of time with today, I would first like to ask you, 18 have you ever been deposed before? 19 A. Never. 20 Q. Okay. I would like to go through a few 21 ground rules for depositions. I'm going to ask some 22 questions and you need to answer. You're answering 23 under oath. If you don't understand a question that 24 I'm asking, let me know. That way the record will not 25 be that I'm asking a question and you're giving an</p>
<p style="text-align: right;">Page 11</p> <p>1 binders and other documents he had. 2 MS. ST. PETER-GRIFFITH: What I would 3 like to do today is to mark as the first exhibit the 4 entire package with the exception of the one document 5 withheld on privilege grounds as BR 00001 through 6 05519. And I've had them burned on a DVD. So what I 7 would like you just to do is give that to the court 8 reporter and that production will be Exhibit 1. Any 9 objection? Tara, is that okay? 10 MS. FUMERTON: That's fine. 11 MS. ST. PETER-GRIFFITH: Okay. And then 12 as Exhibit 2, I would like to mark the two CDs with 13 the 38,340 additional pages -- or, I'm sorry, 38,700 14 plus additional pages of documents as Exhibit B. 15 MS. MOORE: Are those going to be 1 and 16 2 or are you going to use our numbering -- 17 MS. ST. PETER-GRIFFITH: Oh, I'm sorry. 18 Why don't we use our numbering. 19 MS. MOORE: That will be 1116, I 20 believe, will be the first exhibit. I mean, 1214. 21 MS. ST. PETER-GRIFFITH: Okay. So 22 Exhibit 1314 will be the approximate 5519 pages and 23 then 1315 will be the two CDs with an additional 24 38,736 pages. 25 MS. FUMERTON: So the two CDs are being</p>	<p style="text-align: right;">Page 13</p> <p>1 answer, but you didn't understand the question. Okay? 2 So just -- and any time, excuse me, you need to take a 3 break, please let me know. My only request is that if 4 there's a question pending, before -- if I have a 5 question out there, I would like you to answer it 6 before we take a break. Okay? 7 Sir, did you speak with anyone 8 concerning this deposition other than your counsel? 9 A. Yes. 10 Q. Okay. Who did you speak with? 11 A. Well, my brothers on a beach in Upstate New 12 York about a week and a half ago. As I think my wife 13 brought it up, so, therefore, I've spoken to my wife 14 about it, too. And both my daughters, who -- you 15 know, all these were brief and cursory conversations. 16 Q. Okay. 17 A. And I've spoken to my current employer 18 because I felt that they should know that I'm doing 19 the deposition. 20 Q. Okay. And who is your current employer? 21 A. The National Home Infusion Association. And 22 I've also spoken to their counsel briefly about it. 23 Q. Okay. What did you discuss with your family 24 members generally? 25 A. That I'm -- I really didn't want to discuss</p>

4 (Pages 10 to 13)

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1 anything at all, but my wife brought it up, so I just  
2 discussed that I was doing a deposition having to do  
3 with a lawsuit against Abbott having to do with drug  
4 pricing. That's what I think that I said.

5 Q. Okay. And what conversations did you have  
6 with counsel for your employer?

7 MR. STETLER: Now -- okay. Well, I  
8 guess I do have to say. I'm going to object to that  
9 because to the extent he spoke to counsel for his  
10 employer, which I'm aware of, it did involve his  
11 seeking advice from that lawyer and so I would object  
12 on privilege grounds.

13 MS. ST. PETER-GRIFFITH: Okay. I'm  
14 assuming you're going to instruct him not to answer?

15 MR. STETLER: And I'm going to instruct  
16 him not to answer.

17 MS. ST. PETER-GRIFFITH: Okay.

18 Q. (BY MS. ST. PETER-GRIFFITH) Sir, did you  
19 speak with anyone other than counsel at your current  
20 employers about this deposition?

21 A. Well, actually, from -- a lawyer from Jones  
22 Day who first called me. That's how I first found out  
23 that I was being deposed.

24 Q. Okay. And that was Ms. Citera?

25 A. Yes.

Page 15

1 Q. What do you recall discussing with  
2 Ms. Citera?

3 A. Well, she -- she called me and when we got in  
4 contact, I can't remember if she reached me directly,  
5 if I had to return the call, but she told me that I  
6 was being deposed having to do with various lawsuits  
7 against Abbott Labs, having to do with -- I guess she  
8 probably said AWP, drug pricing, and she advised me  
9 that I should get counsel and that Abbott would pay  
10 for those legal fees, praise the Lord, and had  
11 referred me to Mr. Stetler. And, offhand, that's all  
12 that I'm recalling right now.

13 Q. Okay. Have you spoken with anyone else other  
14 than counsel and counsel for your current employer?

15 A. Well, I had already mentioned the others that  
16 I had spoken to in addition. But besides --

17 Q. Yeah.

18 A. Besides that, none that I am recalling right  
19 now and I don't think so.

20 Q. Have you discussed the AWP litigation with  
21 any other current or former employees of Abbott or  
22 Hospira, just in general?

23 A. One that I recall.

24 Q. Okay. And who is that?

25 A. Mike Sellers, who is now with Hospira.

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1 Q. Are you aware that Mr. Sellers has retired or  
2 is retiring?

3 A. I am aware of that.

4 Q. Okay.

5 A. I think he has.

6 Q. Sir, what was your conversation with  
7 Mr. Sellers?

8 A. Well, approximately two weeks before  
9 Ms. Citera contacted me we spoke and that was as a  
10 result of a follow up from one of Abbott -- or, I'm  
11 sorry, one of Hospira's marketing people who is in  
12 interface with our association for Hospira, National  
13 Home Infusion Association affairs. This individual  
14 had asked me if I would be willing to speak with Mike  
15 Sellers pertaining to these lawsuits and I said sure.  
16 And so we -- we were in touch and had a conversation I  
17 would guess about two weeks before I heard from  
18 Ms. Citera.

19 Q. Do you remember what -- when, approximately,  
20 that was, what month?

21 A. Well, this -- I believe both of those were in  
22 March.

23 Q. And Ms. Citera contacted you approximately  
24 two weeks later?

25 A. Approximately.

Page 17

1 Q. And what did you discuss with Mr. Sellers?

2 A. He -- he called me, really, given my position  
3 at the association, to see if there might be a way  
4 for -- to find some, essentially, providers, or  
5 representatives of them, at least, that would be  
6 helpful to the lawsuit against Abbott pertaining to  
7 the contention that the margins that a provider, a  
8 home infusion provider, would receive, would earn, if  
9 you will, from reimbursement for drugs over the cost  
10 of those drugs was necessary for them to be able to  
11 essentially provide their services. And so that was  
12 the general nature of his request.

13 Q. Okay. What you just described, the  
14 contention that margins -- that the home fusion  
15 providers receive over the cost was necessary to  
16 provide services, can you explain what you mean by  
17 that?

18 A. Home infusion therapy is, at least in my  
19 world and those individuals that -- for my -- the  
20 association we represent, they are primarily licensed  
21 pharmacies that provide intravenous and injectable  
22 medications to patients in their homes and sometimes  
23 other alternate site locations. In order to provide  
24 the medications, it's more than just providing  
25 product. It's a -- it's a rather complete medical

5 (Pages 14 to 17)

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1 service that has to do -- that requires clinical  
2 pharmacists, who are quite involved with advising the  
3 physicians who are ordering the medications, in  
4 monitoring and interpreting and advising physicians on  
5 lab results, through sometimes others in the  
6 organization or others outside, such as nurses or  
7 people within the pharmacy that are following up with  
8 patients and listening if there are particular  
9 problems or issues that the patients are bringing up.

10 The pharmacy -- pharmacists do a lot of  
11 quality control checking. The drug themselves are  
12 quite often compounded in a sterile clean room. And  
13 the -- the -- actually, the -- the -- the billing that  
14 is the reimbursement process for home infusion therapy  
15 is -- is very complicated and difficult. And in order  
16 to provide the home infusion therapy service to a  
17 patient, it requires quite a few people on it.

18 And it also requires administration,  
19 supplies, tubing, that sort of thing, needles and  
20 equipment such as infusion pumps. And those are not  
21 free in terms of -- you know, obviously there's a high  
22 cost. If you were to tour a home infusion pharmacy  
23 facility, it will depend clearly on the size of the  
24 patients, you know, their census, if you will. But if  
25 you were to tour, you walk, you are going to see a ton

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1 of people there and it's going to be a very different  
2 experience from looking -- from walking into any  
3 retail community pharmacy.

4 And so in order to provide the service,  
5 there has to be reimbursement for them that is  
6 adequate for them to provide the service and stay in  
7 business. And part of that service is -- part of --  
8 part of providing that is a margin that would be  
9 achieved, i.e., a profit, gross profit, if you will,  
10 the difference between what they may have paid for a  
11 drug as compared to what they were reimbursed for the  
12 drug.

13 And it is -- there are -- there are  
14 other ways, you know, other billing aspects of home  
15 infusion therapy, also, in addition to billing for the  
16 drug, but they all add up to provide a necessary  
17 return for them to provide the service. So that's  
18 what I meant.

19 Q. Okay. And why did Mr. Sellers -- strike  
20 that.

21 What did you mean when you said that  
22 Mr. Sellers asked for an organization or entity that  
23 would be helpful?

24 A. You know, I can't tell you word for word our  
25 conversation because I don't have that type of memory,

Page 20

1 but generally I can tell you my recollections, which  
2 were that he was wanting to see if it's possible to  
3 get, either from the association or a provider, you  
4 know, or whatever individuals that might be willing to  
5 make some sort of statement to attest to the type of  
6 information that I just said, which is that the margin  
7 that would be made for -- by the provider from a drug  
8 was one of the necessary aspects of being able to stay  
9 in business.

10 Q. Did he -- strike that.

11 When you say "margin," how is the margin  
12 achieved?

13 A. Well, I guess I would define the margin in  
14 this case as gross margin being the difference between  
15 what the drug when it's billed is reimbursed for as  
16 compared to what it cost the provider.

17 Q. And are you aware of drugs being billed at  
18 AWP rates?

19 A. The predominant methodology -- well, the  
20 predominant methodology in -- in this -- in this  
21 business of the aspect of the billing for billing of  
22 the drugs has been based on an average wholesale price  
23 figure.

24 Q. And when you say "average wholesale price"  
25 and I say "AWP," are we talking about --

Page 21

1 A. Yes, we are.

2 Q. -- the same thing?

3 A. Yes.

4 Q. Okay. One other thing I don't think I said  
5 is -- is when I -- I'm going to try when you're giving  
6 an answer not to talk over you.

7 A. Okay.

8 Q. If you could do the same for me just because  
9 it's very difficult for our court reporter to take  
10 down two people talking at the same time. Okay?

11 A. I will try.

12 Q. Okay.

13 MR. STETLER: You anticipated her  
14 question, you got it right, but it may not always be  
15 the case. So let her -- just let her finish, that's  
16 all. You may sneak a nod in there at the end.

17 Q. (BY MS. ST. PETER-GRIFFITH) Okay. So you  
18 understood that the predominant methodology for  
19 reimbursement is based upon average wholesale price or  
20 AWP.

21 A. Well, I understand that extremely well now.

22 Q. Okay. What do you mean by that?

23 A. Well, one of the things I want you to  
24 understand is that in my experience at Abbott Home  
25 Infusion, I started with that business unit in

6 (Pages 18 to 21)

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<p style="text-align: right;">Page 22</p> <p>1 January of 1993 and spent approximately five years as  2 being a reimbursement supervisor and I was learning  3 the business. And this is a -- this is not an easy  4 business to learn. And after approximately 1998 I was  5 doing other things that were not directly related to  6 the reimbursement.  7 But in any event, when I left Abbott and  8 began consulting and ultimately took a position for  9 the National Home Infusion Association, you know, I  10 learn every day. And, you know, my knowledge in  11 general about these aspects of reimbursement and other  12 aspects of the home infusion therapy business on the  13 provider side, at least, is far more than what I knew  14 in those five years as reimbursement supervisor at  15 Abbott.  16 So, I'm sorry, what was your question?  17 Q. No. Well --  18 A. I related to it.  19 Q. -- now I have another question for you.  20 A. Okay.  21 Q. How is it that -- that your knowledge now,  22 based upon the position that you're in now regarding  23 reimbursement, has either grown or changed from what  24 it was when you were reimbursement supervisor at  25 Abbott?</p>	<p style="text-align: right;">Page 24</p> <p>1 aspects.  2 One is that specifically with relating  3 to drug pricing in the industry and the importance of  4 that and, perhaps, the evolving mystery of it and an  5 understanding of just what AWP is at this point is far  6 more than I understood in those five years that I was  7 responsible for a portion of the reimbursement in  8 Abbott.  9 The second is I have, I think, a  10 better -- a much better appreciation of the importance  11 of all of the aspects of how providers bill, i.e., the  12 importance of, you know, how they do claims, what they  13 bill for and how that all adds up necessary for them  14 to have -- have appropriate margins so that they can  15 stay in business.  16 You know, can I give you specifics?  17 Maybe if you ask some real questions that are  18 specific, I might be able to answer something. But in  19 general --  20 Q. Okay.  21 A. -- I just know a lot more now than I did  22 then.  23 Q. Okay. What is your understanding of what AWP  24 is?  25 A. Now?</p>
<p style="text-align: right;">Page 23</p> <p>1 MS. FUMERTON: Objection, form.  2 Q. (BY MS. ST. PETER-GRIFFITH) Oh, I also --  3 MR. STETLER: Ignore that.  4 Q. (BY MS. ST. PETER-GRIFFITH) Forgot to tell  5 you that she --  6 MR. STETLER: She'll object.  7 Q. (BY MS. ST. PETER-GRIFFITH) That every once  8 in a while Ms. Fumerton might have an objection.  9 Unless Mr. Stetler instructs you not to answer, if you  10 could respond to my question that I asked.  11 A. So what did we just say? I am or am not --  12 MR. STETLER: She'll object and unless I  13 say something, which would be rare, indeed, you just  14 kind of ignore it and answer the question.  15 MS. FUMERTON: My objection --  16 MR. STETLER: It's a legal thing.  17 MS. FUMERTON: My objection is to her  18 questions, not to anything that you're saying. So it  19 doesn't really actually involve you, but I just wanted  20 to explain that.  21 A. Please ask the question again.  22 MS. ST. PETER-GRIFFITH: Sure. Can you  23 read it back, Cindy?  24 (Requested portion was read)  25 A. I think I would like to answer that in two</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Yes.  2 A. It is a benchmark that is published by now  3 three drug compendiums that is identified with drugs  4 by NDC numbers, drug by drug by drug. That it is  5 something that is -- been a mystery as to how those  6 compendiums actually develop AWP, that there's been  7 media controversy about it and lawsuits about it, but  8 it still is the predominant method throughout most  9 payers for home infusion providers through which the  10 billings that they submit on claims for drugs are paid  11 with and these days there's typically a steep discount  12 for most payers off of that published AWP price.  13 Q. Do you know why there's a steep discount or  14 do you have an understanding as to why?  15 A. I guess what I can tell you is it's my  16 general impression and -- and that's all that I can  17 give you, that there is reimbursement for home  18 infusion in general and that includes the drug  19 billings specifically has been ratcheted back by  20 various payers over the last 15 years and that  21 includes AWP.  22 Q. Okay. What was your understanding of AWP  23 prior to your having this understanding?  24 MS. FUMERTON: Objection, form.  25 Q. (BY MS. ST. PETER-GRIFFITH) I mean --</p>

7 (Pages 22 to 25)

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1 strike. Actually, let me ask this: Your  
2 understanding of AWP that you just described, when did  
3 you come to have that understanding of what AWP was?

4 A. Oh, that would be difficult to say, I guess.  
5 I -- somewhere in the period of which -- and I think  
6 it's the period that I was probably still a  
7 reimbursement manager, but it could have been later.  
8 I was reimbursement supervisor, but it could have been  
9 later. I came to an understanding that AWP was not  
10 what I had thought it was, was what Bruce Rodman  
11 thought it was from the name.

12 Q. Okay. And what did you think AWP was?

13 A. I thought --

14 MS. FUMERTON: Objection, form.

15 A. -- from the name, not because anybody told  
16 me, I just thought from the name that it was an  
17 average based on statistical sampling or reporting or  
18 something like that, but an average of what a  
19 provider, in fact, would be paying to acquire a drug  
20 from their source. Specifically from their  
21 wholesaler.

22 Q. (BY MS. ST. PETER-GRIFFITH) Okay. And  
23 what -- when did you have that understanding?

24 A. Well, certainly I would say through much of  
25 those five years or so that I was the reimbursement

1 supervisor.

2 Q. When you were the reimbursement supervisor  
3 within the -- and we'll get into your employment  
4 history for a second, but --

5 A. Uh-huh.

6 Q. -- when you were a reimbursement supervisor,  
7 did you receive any training as to what AWP was or  
8 what Abbott's understanding of AWP was?

9 A. Not that I can recall.

10 Q. Okay. I would like to circle back and round  
11 out my questions concerning Mister -- your  
12 conversation with Mr. Sellers. Do you remember  
13 anything else concerning your conversation with  
14 Mr. Sellers?

15 A. Not at that conversation. I did do some  
16 follow up.

17 Q. Okay. And what did you do for follow up?

18 A. Well, you know, I do remember one more  
19 thing --

20 Q. Sure.

21 A. -- actually, which was that, you know, I was  
22 briefly thinking, well -- our -- our association's  
23 executive director actually had just been in the  
24 process of resigning and a new one was starting and,  
25 you know, my first thought was, well, possibly if

1 someone from the association was going to say  
2 something, it was the executive director, but that  
3 wouldn't be appropriate because the new executive  
4 director was just starting to learn the business. So  
5 I -- at least in my own mind I briefly thought, well,  
6 maybe I could say something.

7 And I don't recall whether Mike Sellers  
8 brought it up first or whether I said something, but  
9 in any event, he said, "Well, that probably wouldn't  
10 be appropriate" given that I had worked with Abbott  
11 and I agreed with that, so I concurred.

12 So I did provide the names of two  
13 individuals to Mike Sellers that he might follow up in  
14 contact with.

15 Q. Okay. And do you know whether he did?

16 A. Yes. I talked to one of them and I know that  
17 he did with one of them. And I do not know about the  
18 other.

19 Q. Okay. What was your conversation with the  
20 individual that you spoke with that Mr. Sellers  
21 contacted?

22 A. That -- well, then I get the phone call from  
23 Ms. Citera and that occurred after. So I did have a  
24 conversation with this one individual at one point and  
25 just said, you know, just -- just be careful that --

1 don't run into more grief than you really want to. In  
2 effect, that's what I said. I don't recall the exact  
3 words.

4 Q. Who were you speaking to?

5 A. His name is Larry Robinson.

6 Q. Okay. And what is -- who is Mr. Robinson  
7 affiliated with?

8 A. Well, he was affiliated at the time with the  
9 home infusion business and I think some other home  
10 businesses, also, for the Methodist Hospital in  
11 Memphis, Tennessee. Their business name is Methodist  
12 Alliance.

13 Q. And why did you make that comment to him?

14 A. Because I just try to operate prudently as  
15 general practice and I got this request to do the  
16 deposition, which I -- was a surprise to me, frankly,  
17 and that it would take up some time. And I just  
18 said -- you know, I just wanted to be -- you know,  
19 Larry -- I consider Larry a friend. I just wanted to  
20 let him know that he -- he'd want to just be careful  
21 in that sense because it may take him some time that  
22 he doesn't want to be involved with. It was that  
23 simple.

24 You know, and, frankly, if -- if the  
25 situation had been reversed and I had the phone call

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1 from Ms. Citera before the contact with Sellers, I  
2 would not have talked to him because I am a prudent  
3 person and felt that it would not be appropriate. I  
4 would have felt that.

5 Q. Did you tell Mr. Robinson that you might be  
6 deposed?

7 A. I don't recall if I said that.

8 Q. Okay. Did he tell you what his conversation  
9 was with Mr. Sellers?

10 A. Yeah. He contacted me. I remember something  
11 like that, but beyond that, no.

12 Q. Okay. Did you discuss with Mr. Sellers his  
13 deposition?

14 A. No.

15 Q. Okay. Did you --

16 A. I wasn't -- I mean, was he deposed? I was --  
17 you know, I'm not aware of that specifically.

18 Q. Did you discuss with Mr. Sellers the nature  
19 of the AWP litigation at all?

20 A. No. Well, not that I can recall.

21 Q. What else do you recall about your  
22 conversation with Mr. Sellers?

23 A. The extent of what I'm recalling now.

24 Q. Do you recall having conversations with any  
25 other current or former Abbott or Hospira employees

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1 other than Mr. Sellers concerning the AWP litigation?

2 A. The individual that contacted me to ask if I  
3 would speak to Mr. Sellers.

4 Q. And who was that?

5 A. I don't recall his name. I should, but I  
6 just don't. I'm sorry.

7 Q. That's okay. What was your recollection of  
8 that conversation?

9 A. It was really pretty much as I just told you,  
10 which was there are some lawsuits related to the drug  
11 pricing and Mike Sellers is involved and would like to  
12 talk to you and I said sure.

13 Q. Do you know why Mr. Sellers called you?

14 A. Well, it was as a follow up from that. You  
15 know, beyond that, I think I told you everything I  
16 know about why he would have called me.

17 Q. Okay. And just to be clear, there's no one  
18 else at Abbott or any other former or current employee  
19 that you've spoken to about this litigation?

20 A. Not that I can recall.

21 Q. Are you in contact with current or former  
22 employees at Abbott?

23 A. A little bit. Not much.

24 Q. Are you in contact with them through your  
25 current work with the NHIA?

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1 A. A little bit. The marketing people at now  
2 Hospira.

3 Q. Okay. And who are you in contact with at  
4 Hospira?

5 A. Well, there's -- some of the people have  
6 turned over -- my role, by the way, is not in the  
7 aspects of, you know -- within our association we --  
8 essentially vendors, such as Hospira and others, use  
9 the association to reach and convey their messages and  
10 their products and services. So they do such things  
11 as rent booth space in our annual convention, place  
12 advertisements in our magazine, and things like that,  
13 provide grants for some products or services that the  
14 association provides. I have very little to do with  
15 that, so my contact with any of these people is very  
16 cursory.

17 In the case of Hospira, my contact is  
18 with the marketing team that is that type of interface  
19 for Hospira with the association, which is called NHIA  
20 is the shortcut to the full name of it. And they  
21 have -- some of those people have just turned over,  
22 actually. The last contact that I had with them,  
23 actually, was this one individual and because of a  
24 turnover that's why I don't recall his name, frankly.

25 Q. Okay.

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1 A. The -- I did speak to a number of them at the  
2 conference, which was in early March of this year, in  
3 Savannah, Georgia. It was more pleasantries than  
4 anything else and --

5 Q. Do you remember who they were?

6 A. Well, one of them is the outgoing head of  
7 that Alternate Site Business Unit, or at least I think  
8 that's what they call it, and his name is Sean Murphy.  
9 There is a replacement for Sean at this point who is a  
10 woman, but I'm not recalling her name now. And  
11 another individual is someone named Mary Baker, I  
12 believe that's her name, who actually is a  
13 clinical person in their clinical area. And this one  
14 individual, I'm just not remembering his name, I'm  
15 sorry, who replaced someone that I did use to speak to  
16 named Jim Custud, C-u-s-t-u-d, I think. And it's his  
17 replacement. And, you know, I think I probably said  
18 hello to a couple of others in the booth, their booth,  
19 at the conference.

20 Q. Did you have any discussion about the AWP  
21 litigation?

22 A. No, other than what I told you.

23 Q. Have you had any discussions with anyone  
24 outside of Abbott or Hospira other than your  
25 counsel concerning -- and your -- your current

9 (Pages 30 to 33)

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<p style="text-align: right;">Page 34</p> <p>1 employer's counsel, concerning the AWP litigation?</p> <p>2 A. Well, I told you about the one with Larry</p> <p>3 Robinson. I also had a follow up, very brief</p> <p>4 conversation with the other person whose name I gave</p> <p>5 to Mr. Sellers.</p> <p>6 Q. And who was that?</p> <p>7 A. His name is Christopher Maksym, M-a --</p> <p>8 Maksym, M-a-k-s-y-m.</p> <p>9 Q. Okay. And who is he with?</p> <p>10 A. He is with the University of Michigan's home</p> <p>11 business, which goes under a business name of HomeMed</p> <p>12 H-o-m-e-M-e-d. He is the senior executive of the</p> <p>13 homecare business. He also, actually, is the board</p> <p>14 president of our association.</p> <p>15 Q. And what did you discuss with him about the</p> <p>16 AWP litigation?</p> <p>17 A. You know, I can't remember any details except</p> <p>18 to say that higher level. It was very similar to the</p> <p>19 conversation I had with Larry Robinson. Just to</p> <p>20 mention to him that he may not want to get involved</p> <p>21 for the same reasons. And I consider him a friend,</p> <p>22 too, as well as a business colleague.</p> <p>23 Q. Anything else you discussed with him about</p> <p>24 the AWP litigation?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 36</p> <p>1 doing consulting to, in some cases, provide some</p> <p>2 knowledge and background of things that I actually was</p> <p>3 never involved with and others simply, yeah, I was,</p> <p>4 but I felt that they would be good references for me</p> <p>5 to use. That was one reason.</p> <p>6 The other reason was during most of my</p> <p>7 tenure when -- at Abbott Home Infusion Services I was</p> <p>8 involved in the startup of something that became</p> <p>9 called, and still is, the Home Infusion EDI Coalition</p> <p>10 where EDI stands for electronic data interchange. And</p> <p>11 that was initially a coalition of providers and</p> <p>12 payers, actually, and other interested parties working</p> <p>13 to promote the use of electronic submission of</p> <p>14 healthcare claims from providers to payers as compared</p> <p>15 to paper claims. And an important aspect of the work</p> <p>16 on that coalition was to standardize a coding of</p> <p>17 claims.</p> <p>18 And in the latter portion of my tenure</p> <p>19 while at Abbott -- I was, actually, always chair of</p> <p>20 the Home Infusion EDI Coalition, the lead person, and</p> <p>21 I still am. And in the latter years of my tenure with</p> <p>22 Abbott, I made a decision with the association to</p> <p>23 bring the Home Infusion EDI Coalition under the wraps</p> <p>24 of NHIA, which had always been involved as a</p> <p>25 participant.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Sir, I know this is -- we are going to go</p> <p>2 through your documents in detail, but I just want to</p> <p>3 confirm with regard to Exhibit 1315, which are the two</p> <p>4 CDs that you produced, were those documents that you</p> <p>5 obtained from Abbott or Abbott databases?</p> <p>6 A. Those are documents that were on my Abbott</p> <p>7 personal computer that I used as part of the business</p> <p>8 functions that I performed at Abbott. They're not --</p> <p>9 I mean, they're not all the documents, but they're the</p> <p>10 ones that I had kept.</p> <p>11 Q. Why did you choose to keep those?</p> <p>12 A. The same reason. It also applies to the</p> <p>13 paper documents.</p> <p>14 Q. Okay.</p> <p>15 A. When I left Abbott Home Infusion Services, I</p> <p>16 was fairly confident, I mean, quite confident that I</p> <p>17 would end up with the National Home Infusion</p> <p>18 Association, but it wasn't -- well, I also -- during</p> <p>19 the first six months I was a consultant and I felt</p> <p>20 that there might be other consulting opportunities</p> <p>21 that I would want to undertake and if things did not</p> <p>22 work out with NHIA, I might want to do that.</p> <p>23 And my purpose on keeping those -- one</p> <p>24 purpose was that I just -- these were documents that I</p> <p>25 thought would be good for me to reference if I was</p>	<p style="text-align: right;">Page 37</p> <p>1 And I did, if you will, a lot of</p> <p>2 volunteer duty while I was an Abbott employee for the</p> <p>3 benefit of this activity and, therefore, had a number</p> <p>4 of documents that were important to me for reference</p> <p>5 as I was to continue, as I had anticipated to, with</p> <p>6 the association as a consultant and then an employee</p> <p>7 with that activity. So that was the other reason for</p> <p>8 keeping some of them.</p> <p>9 Q. Okay. With regard to the documents that were</p> <p>10 in hard copy form that predated your departure from</p> <p>11 Abbott, were those documents that were -- that you</p> <p>12 obtained from Abbott?</p> <p>13 A. Well, if I understood the question, I think</p> <p>14 what you may be asking is are these documents that I</p> <p>15 used in doing my job at Abbott or are there any</p> <p>16 others. Is that what you're trying to ask?</p> <p>17 Q. No. I'm trying -- I'm just trying to confirm</p> <p>18 that with regard to the first set of documents, the</p> <p>19 hard copy documents.</p> <p>20 A. Okay. The hard copy documents.</p> <p>21 Q. Other than the documents that, obviously,</p> <p>22 came after your departure from Abbott. Like, for</p> <p>23 example, the Mike Sellers' e-mail.</p> <p>24 A. Okay.</p> <p>25 Q. Other than those, were -- is that first</p>

10 (Pages 34 to 37)

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<p style="text-align: right;">Page 38</p> <p>1 production of documents, were those documents that --  2 that you obtained from Abbott?  3 MS. FUMERTON: Objection, form.  4 MR. STETLER: You can answer.  5 MS. FUMERTON: Go ahead. Ignore me.  6 A. Most of those were documents that I -- I at  7 one point used when I -- or created when I was an  8 Abbott employee.  9 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  10 A. That's what most of them are.  11 Q. So you --  12 A. To the best of my ability, anyway.  13 Q. Did you use them in the ordinary course of  14 your position at Abbott?  15 A. Most of them, yes.  16 Q. Okay. Is that also true for the  17 approximately 38,700 plus pages of documents that were  18 burned on CDs from your personal computer?  19 A. Most of them, yes. I mean, you know, when  20 you say day-to-day course of activities, I mean, some  21 of them I might have used once, but yeah.  22 Q. But you used them as part of your position at  23 Abbott?  24 A. Including my volunteer work as chair of the  25 Home Infusion EDI Coalition.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. 1983.  2 Q. Was there a period of time that you took off  3 from your studies in between obtaining your electrical  4 engineering degree and your MBA? Did you take a  5 break?  6 A. Yeah. No. I -- I started the MBA in 1980  7 and I -- I did that while I was working.  8 Q. Okay. Starting from your graduation from  9 Northwestern, can you take us through your employment  10 history, please?  11 A. Sure. My first real job out of college, and  12 first real job in many ways, was with the American  13 Hospital Supply Corporation. Approximately the first  14 half of my career was in the area of information  15 technology. I started with that company as a  16 programmer in their business systems and,  17 specifically, actually, in areas of order processing  18 and inventory management. And I probably was a  19 programmer for two or three years. Then I progressed  20 some as a supervisor or manager, I'm not recalling the  21 titles exactly, and doing certain functions within  22 that information center. And the latter portion of  23 that actually had to do with processes of how you  24 develop computer systems, quality types of processes.  25 I left American Hospital Supply in early 1986, which</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Okay. Well, did you consider your volunteer  2 efforts something that you did as -- as part of your  3 job?  4 A. That and far beyond.  5 Q. Okay.  6 A. I put a lot of time into it and a lot of  7 personal dedication and passion.  8 Q. Sir, can you -- starting with your graduation  9 from high school or starting after your graduation  10 from high school, can you take us through your  11 educational background?  12 A. Yes. I have -- I went to Northwestern  13 University. I was in the electrical engineering  14 program and I have a Bachelor's in Electrical  15 Engineering. Then later I went to the University of  16 Chicago to obtain my MBA.  17 Q. And did you obtain your MBA from the  18 University of Chicago?  19 A. Yes.  20 Q. Okay. What year did you obtain your BA in  21 Electrical Engineering?  22 A. BS.  23 Q. I'm sorry, BS.  24 A. In 1972.  25 Q. And what year did you obtain your MBA?</p>	<p style="text-align: right;">Page 41</p> <p>1 was related to its acquisition by Baxter Laboratories.  2 My next position was with Abbott  3 Laboratories. I started with Abbott in a corporate  4 function that was developing a personal computer-based  5 order entry system for Abbott's customers called  6 QuickLink and I was actually hired on as a project  7 manager. Again, I'm not going to use exact titles  8 because I don't remember them, but --  9 Q. Okay.  10 A. -- conceptually I was really a project  11 manager and -- and customer liaison with a major  12 buying group in the southeast that Abbott was going to  13 enhance significantly the order entry system for this  14 buying group's hospital clients.  15 Q. What was -- I'm sorry to interrupt. What was  16 the name of that buying group?  17 A. SunHealth.  18 Q. SunHealth?  19 A. SunHealth, uh-huh. In Charlotte, North  20 Carolina. It was their headquarters.  21 Q. Okay.  22 A. And my next position at Abbott was probably  23 in 1990 where I moved to a group in that same  24 corporate group that was a corporate consulting group  25 that provide consulting services to some of Abbott's</p>

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1 customers, primarily hospitals but some others. And I  
2 was a consultant within that group and involved in  
3 doing some strategic planning consulting,  
4 facilitation, essentially, up until the end of 1992.

5 Q. I hate to interrupt again, but before we get  
6 too far, the group that you worked with when you --  
7 from '86 to approximately 1990, was that within a  
8 particular division of Abbott?

9 A. I do not recall if it was called this  
10 division the entire time frame, but most of it that I  
11 recall it was called the Corporate Hospital Marketing  
12 Division up until 1993. So it was the same division  
13 through that period of time.

14 Q. And was that within a subdivision of Abbott,  
15 like Hospital Products Division?

16 A. No. It was reporting in corporately. It was  
17 a division that in concept, at least, provided certain  
18 marketing functions to more than one division of  
19 Abbott. A lot of it was provided to the HPD division.

20 Q. Okay. And what was your grade when you  
21 were -- when you were -- held that position from '86  
22 to '90?

23 A. You're referring to Abbott --

24 Q. Abbott's grading --

25 A. -- salary grades?

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1 Q. Yes.

2 A. Well, when I started, I, frankly, don't  
3 recall the grade. And I actually left out something,  
4 too, now that I'm remembering, which at one point I  
5 was the manager of the programming group, that the --  
6 the manager that was part of my hire left and I was  
7 the manager. And at that time -- and that would have  
8 been, I don't know, 1980 -- 19 -- yeah, 1988 and 1989.  
9 I was a grade 19 at that point.

10 When I became a consultant, that was a  
11 situation where the QuickLink objectives had changed  
12 and they really didn't need all that horsepower and so  
13 I was at a lower grade. I frankly don't recall what  
14 it was, but I'm pretty confident it was a lower grade.

15 Q. When you were the manager of the programming  
16 group, was that within a particular Abbott division?

17 A. It was -- it was still the corporate --  
18 well --

19 Q. Okay.

20 A. What I think was called the Corporate  
21 Hospital Marketing Division at that time.

22 Q. Okay. And you were in that position from '88  
23 to 89?

24 A. Approximately.

25 Q. Okay. And then was it in '89 or '90 that you

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1 moved on to the corporate consulting group?

2 A. I think I told you early approximately 1990,  
3 but I --

4 Q. Okay.

5 A. It's been a long time.

6 Q. Did you -- did you go from the manager of the  
7 programming group to the corporate consulting group?

8 A. I think so.

9 Q. Okay.

10 A. As I recall.

11 Q. And then after '90 to '92 you maintained the  
12 position of corporate -- maintained a position in the  
13 corporate consulting group in strategic planning; is  
14 that fair?

15 A. That is fair.

16 Q. Okay.

17 A. And the facilitation of strategic planning  
18 for Abbott's customers.

19 Q. Okay. Did you work with any customers in  
20 particular?

21 A. Quite a few.

22 Q. Do you remember who they were?

23 A. I could probably search and remember some.

24 American Dietetic Association, which actually wasn't  
25 really a customer per se, Victoria Hospital in

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1 Waukegan, St. Barnabus Hospital in New Jersey, the --  
2 there's a -- there's a Catholic hospital in Baton  
3 Rouge, Our Lady of -- Our Lady of something in Baton  
4 Rouge. There were quite a few.

5 Q. Okay. What kind of strategic planning did  
6 you do for them?

7 A. I and the team developed -- this was a new  
8 start-up consulting business to -- we actually had  
9 trade named it ProCeed and it was -- it was a  
10 facilitated way of getting together senior managers  
11 and these clients through a one- or two-day  
12 facilitated strategic planning session where we would  
13 facilitate the process of them identifying strategic  
14 business opportunities or, in some cases, perhaps  
15 solutions to business problems that they had and then  
16 produce a report. There was a lot of preparation and  
17 interviewing prior to what we would do and then we  
18 would produce a rather comprehensive report, including  
19 the action plan.

20 Q. Okay. When you were the manager of the  
21 programming group, what type of programming did you  
22 do?

23 A. Well, I hadn't personally done programming  
24 since about 1975.

25 Q. Okay.

12 (Pages 42 to 45)

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1 A. So -- so I was managing those that were doing  
2 the program and the -- I'm not sure of the nature of  
3 what you want to find out by the type of programming.

4 Q. Okay. What types of systems were they --  
5 were the individuals that you were managing?

6 A. Oh, it was -- it was -- it was this QuickLink  
7 order entry system and that's all it was.

8 Q. Okay. After '92 when you transitioned from  
9 the corporate consulting group, where did you go  
10 within Abbott?

11 A. That's when I went to the Abbott Home  
12 Infusion Services business in January of 1993.

13 Q. Okay. And what position did you initially  
14 hold?

15 A. Reimbursement supervisor.

16 Q. And what were your responsibilities as  
17 reimbursement supervisor?

18 A. Abbott, in that business unit, provided a  
19 function which acted as a billing service for some of  
20 that business unit's clients, meaning to handle most  
21 aspects of reimbursement, including the submission of  
22 claims. Essentially to submit it and get paid on  
23 claims for services for the clients of the business  
24 unit, as well as Abbott also had, when I started,  
25 three pharmacies that some patients were provided the

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1 home infusion therapy services for under Abbott's name  
2 and this business unit did some of those billing  
3 services, too, or reimbursement services. I was -- as  
4 reimbursement supervisor, when I was there, probably  
5 all the time I was involved. In that position there  
6 were always two reimbursement supervisors reporting to  
7 the manager above and I was responsible for  
8 approximately one-half of the billing.

9 Q. Okay. Had you ever had experience with home  
10 infusion before that point in time?

11 A. No.

12 Q. Did you have any educational background or  
13 training concerning home infusion?

14 A. No.

15 Q. Do you know why you were selected for that  
16 position?

17 A. I believe that a reason why was that the  
18 manager that hired me valued my information technology  
19 background and hoped that I would be able to lead a  
20 charge to modernize what was, at the time, these  
21 people were all working on paper, no one had a  
22 personal computer in 1993, and help do something about  
23 it. Beyond that, I think that I had credentials and  
24 interviewed well.

25 Q. Who was the manager that hired you?

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1 A. Virginia Tobiason.

2 Q. And how long was she your manager?

3 A. Probably two years later there was at least  
4 two other individuals that were brought in kind of in  
5 between Virginia and myself and the other supervisor.  
6 So as a direct manager, I don't know, two to three to  
7 four years. I don't recall exactly.

8 Q. And did you have responsibilities with regard  
9 to developing a computer system to help change from a  
10 paper format to a computer format?

11 A. Well, that -- well, actually, there's  
12 probably two aspects of that as to ultimately what I  
13 did. One is I did -- I was the person that managed to  
14 make the case and get -- with support from the general  
15 manager and with, you know, the people in support, but  
16 get the people in the billing department on personal  
17 computers for the first time. So I was the person  
18 involved with interfacing with the divisional IT  
19 people to find these computers, which initially were a  
20 lot of used computers coming from other areas.

21 The other aspect, too, and this may have  
22 been an interest of Virginia, but I really don't know  
23 that, was that a very important aspect of the Abbott  
24 Home Infusion business was its computer system called  
25 the CHIP system. That was a system that provided the

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1 necessary computer systems to manage most aspects of  
2 the home infusion business. And an important part of  
3 that was certainly the reimbursement. And that system  
4 had been crafted together over a number of years and  
5 continued to have room for improvement and it's  
6 possible that Virginia Tobiason hired me as  
7 understanding that, because I had an IT background,  
8 that I might bring some strengths to recognizing the  
9 types of enhancements that could help a lot in the  
10 efficiencies and perhaps accuracies, but I can say  
11 more efficiencies of the functioning of the billing  
12 department.

13 Q. Did you work on the CHIP system?

14 A. I, during that time, was pretty much the key  
15 interface between the group of -- in the reimbursement  
16 department between that group and the developers of  
17 the CHIP system. I was not in, at that time, the  
18 programming area of the system.

19 Q. Okay. But you had input into -- did you have  
20 input into the CHIP system?

21 A. Oh, yes.

22 Q. How was your relationship with Virginia  
23 Tobiason?

24 MS. FUMERTON: Objection, form.

25 Q. (BY MS. ST. PETER-GRIFFITH) Go ahead. You

13 (Pages 46 to 49)

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1 can answer.  
 2 A. I'm not sure what you're asking of that.  
 3 MR. STETLER: You've got to get used to  
 4 that.  
 5 A. Ask me more, please.  
 6 Q. (BY MS. ST. PETER-GRIFFITH) Sure. What --  
 7 did you think you had a good working relationship with  
 8 Virginia Tobiason?  
 9 A. Initially, but it was -- it was, I felt,  
 10 somewhat rocky --  
 11 Q. Okay. Why was --  
 12 A. -- over time.  
 13 Q. Why was it rocky?  
 14 A. I guess I can give my views.  
 15 Q. Sure. That's --  
 16 A. Only my views. Okay. Virginia was, and  
 17 presumably still is, an incredibly intelligent  
 18 individual and, you know, probably a very good person  
 19 to have on -- on your team. She wasn't a very good  
 20 manager. She was -- she was difficult to deal with  
 21 as -- as an employee. You know, that would range  
 22 from, you know, anger to -- to -- it was probably more  
 23 anger than anything else at times. My personal belief  
 24 is that she was threatened by competent people that  
 25 would be working for her. And, again, that's my view

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1 you asked. And from that aspect the relationship was  
 2 rocky.  
 3 Q. How -- who were the individuals that were in  
 4 between you that -- that were sort of intermediate  
 5 managers in between you and Virginia after a period of  
 6 time?  
 7 A. The first one was -- his name is/was Keith  
 8 Harper.  
 9 Q. Okay.  
 10 A. The -- and that was perhaps a year and a  
 11 half, that's what I'm guessing, maybe two years. The  
 12 second one was Michael or Mike Snouffer,  
 13 S-n-o-u-f-f-e-r. He was there for -- he had a much  
 14 longer tenure there --  
 15 Q. Okay.  
 16 A. -- and I reported to him for -- until  
 17 approximately 2000.  
 18 Q. Who did you report to after 2000?  
 19 A. Karla Kreklow.  
 20 Q. And how long did you report to her?  
 21 A. From approximately 2000 to when I left, 2003.  
 22 Q. Now, did your job title of reimbursement  
 23 supervisor change?  
 24 A. The whole time that I was responsible for  
 25 that aspect of the billing that I told you about, it

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1 was reimbursement supervisor. And since you asked  
 2 earlier, just to fill it in, I think that was a grade  
 3 16 the whole time.  
 4 Q. Okay.  
 5 A. Then in approximately 1998, I was -- took a  
 6 position in the reimbursement department to be  
 7 essentially their, I guess, financial analyst,  
 8 involved primarily with assessing accounts receivable  
 9 and evaluating the probability of collection it --  
 10 collecting it, which was called a risk analysis.  
 11 And --  
 12 Q. Did you still report to Mr. Snouffer?  
 13 A. Yes, I did.  
 14 Q. Okay.  
 15 A. Yes. That may have been for a year or so  
 16 that I was doing primarily that work. And then in --  
 17 my recollection is in late 1999, or sometime in 1999,  
 18 this could have been 2000, but it was announced to the  
 19 employees that Abbott was going to be shutting down  
 20 the home infusion business. And related to that, you  
 21 know, there were -- over the period of time, you know,  
 22 some people were leaving. But in any event, the  
 23 position that I undertook was to be the -- what I  
 24 would describe as being the product manager for the  
 25 CHIP system that I told you about where I was the

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1 principal user liaison to help them out, educate them,  
 2 identify their needs to the degree that we were still  
 3 doing enhancements to the CHIP system, which we were  
 4 for some of the time, you know, involved in helping  
 5 and, if not, even writing the user types of  
 6 specifications as to what was to be done in the CHIP  
 7 system. And I believe my title was manager of client  
 8 services at that time. And I think, it's been a long  
 9 time, so I can only say I recall that I was still  
 10 doing risk analysis during that time of the accounts  
 11 receivable, too.  
 12 Q. When you say "risk analysis," what -- what is  
 13 risk analysis or what was risk analysis within the  
 14 home --  
 15 A. Well, that was, as I, perhaps, not adequately  
 16 enough had explained --  
 17 Q. No, that's okay.  
 18 A. -- which was -- it was important for your  
 19 accounts receivable, that is, billing for the services  
 20 that you were billing for, to make an assessment from  
 21 time to time of how much you actually could collect.  
 22 So if you have, you know, X number of dollars that are  
 23 on the books for your accounts receivable, can you  
 24 really collect that or you're going to collect  
 25 something less than or, in theory, more than that.

14 (Pages 50 to 53)

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1 And -- because if it was going to be something  
2 different, then you would, perhaps, want to consider  
3 changing the balance on the books.

4 And so there was a methodology that had  
5 been developed really before I came to the business  
6 unit on how to do that involving basically dumping  
7 data from the computer system and doing some  
8 spreadsheet analysis. Which I helped perfect some,  
9 both before I was doing it, as well as while I was  
10 doing it. That was done on spreadsheets to do that  
11 type of evaluation. So that was called a risk  
12 analysis.

13 Q. Okay. And was that part of your routine job  
14 responsibility?

15 A. When I was the financial analyst it was.

16 Q. Okay.

17 A. And my recollection is I was still doing that  
18 during the period of time that I was the manager of  
19 client services for the CHIP system, too.

20 Q. And let's go back. What were all of your  
21 responsibilities when you were a reimbursement  
22 manager?

23 A. Well, it was essentially to manage, help out,  
24 assist, coach the people that were doing the  
25 submission of claims for healthcare services to be

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1 paid for.

2 It also -- I had explained earlier I was  
3 the -- really the primary user interface from a  
4 reimbursement sense for the CHIP system developers  
5 during that time. And I had approximately -- and it  
6 would vary from -- during the period of time, but  
7 approximately 15 to 20 people that reported either  
8 directly or indirectly to me, some exempt, some  
9 nonexempt, if that is meaningful to you.

10 Q. No. Will you explain that?

11 A. Exempt means salary, nonexempt meant hourly,  
12 hourly paid employees.

13 Q. Okay.

14 A. And all of them were -- you know, their job  
15 function was to submit claims and to follow up and to  
16 collect the money from various health plans.

17 Q. What did you do to -- coming into this  
18 position without a background in home infusion --

19 A. Uh-huh.

20 Q. -- what did you do to essentially learn the  
21 home infusion reimbursement component of Abbott's  
22 business?

23 A. Well, since I knew nothing about  
24 reimbursement, period, the first thing I did, I  
25 remember doing that while I was going through the

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1 interview process, was kind of sit down and flowchart  
2 how I thought it worked based on what I was picking up  
3 from some interviews.

4 I actually replaced another individual  
5 who was -- had been a reimbursement supervisor and she  
6 was still on board and very helpful to me in walking  
7 me through further processes and training me about,  
8 you know, what they did and -- or at least as you can  
9 be trained, because it was difficult. Probably, you  
10 know, helping me understand clients, some of the  
11 people that were reporting to me, that sort of thing.

12 Beyond that, this person actually became  
13 the educator for the -- the trainer for the -- for the  
14 reimbursement department. Which my recollection is  
15 that was the first time they had had that. So she had  
16 moved from being supervisor to training -- trainer.  
17 And beyond that I, as others, attended her training  
18 from time to time on various billing aspects and it  
19 was trial by fire.

20 Q. Who -- who was that individual?

21 A. Shellie Bronson.

22 Q. Okay. Did you have any other  
23 responsibilities when you were the -- when you were  
24 reimbursement supervisor that we haven't discussed?

25 A. Well, you know, as a member of the management

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1 team, which I was, I guess I interventionally,  
2 occasionally be involved in certain types of projects  
3 and stuff, but I think I've -- I've adequately  
4 supplied up the thrust of what I was doing.

5 Q. Do you recall what those projects might have  
6 been that you worked on?

7 A. One of them I recall was an audit by the  
8 Illinois Medicaid on the billing that Abbott had done.

9 Q. Okay. What was your involvement with that?

10 A. To be involved in organizing and producing  
11 the documents for the auditors. And then they did  
12 find a couple of mistakes that were made and I was  
13 involved in, you know, checking their work and results  
14 and then I was involved with our general manager in --  
15 in working out an ultimate figure. We ultimately did  
16 reimburse some money to Illinois Medicaid.

17 Q. Do you remember what those mistakes were?

18 A. Yeah. I remember one very vividly. It was  
19 for an expensive drug called ceftriaxone  
20 or Rocephin -- or, no. What's the generic?  
21 Ceftriaxone was -- that was the generic. Rocephin, I  
22 think, is the brand name.

23 MR. STETLER: You're looking at me?

24 A. Sorry. Who's the pharmacist in here? And  
25 the individual that had done the billing had not

15 (Pages 54 to 57)

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1 understood how to bill properly for the units of  
2 measure, you know, quantity of the drug being billed.  
3 And as I later learned during this time, as I began to  
4 understand more, it's no damn wonder they didn't  
5 understand it because it was -- they're very  
6 complicated and you -- you know, I somewhat  
7 facetiously say you had to be a pharmacist to figure  
8 this out. And it has to do with the complexity of the  
9 billing, at that time, at least, to Illinois Medicaid,  
10 as it was and still can be.

11 So in any event, a billing mistake was  
12 made. There was a substantial overcharge to Illinois  
13 Medicaid that was, also, unfortunately, not caught by  
14 the people that were responsible for what we call  
15 applying the cash, which is to review the -- the  
16 records of payment coming from the various health  
17 plans and hopefully review it for some degree of  
18 accuracy, but record that you received the cash on  
19 your computer system. Well, that was not caught, even  
20 though looking at it later it's like you ask how could  
21 they not catch that, because it was a huge amount.  
22 And that was the one that I really recall.

23 And then their method was to do an  
24 extrapolation of samples of claims to extrapolate that  
25 to a total period of claiming to them during the

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1 period of time which then resulted in a pretty big  
2 number.

3 Q. (BY MS. ST. PETER-GRIFFITH) Any other  
4 projects that you recall being involved in?

5 A. I'm sure there were. That was when I was  
6 coordinator. What was that? I'm sorry. It was some  
7 industry changes, not just coming to mind. I probably  
8 should remember it because it was important and I know  
9 it was and maybe it will come back to me later.

10 Q. That's all right. If it does --

11 A. But I was sort of a divisional coordinator of  
12 it. I mean, a business unit coordinator of it.

13 Q. When it comes back to you, just let us know.

14 A. If it does.

15 Q. Sir -- okay. If it does, that's fine. I was  
16 hoping to get through your -- your employment history,  
17 but we've got five minutes left on the tape and my  
18 rule is we have to take a break in between tape  
19 changes and give the witness a break after at least  
20 one tape. So why don't we take a break at this time.

21 MS. NESBITT: Can I just make my  
22 appearance on the record --

23 MS. ST. PETER-GRIFFITH: Sure.

24 MS. NESBITT: -- since I was a little bit  
25 late?

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1 I'm Amber Nesbitt at Wexler Toriseva  
2 Wallace on behalf of the MDL plaintiffs and the State  
3 of Arizona.

4 THE VIDEOGRAPHER: And we are off the  
5 record at 10:03 a.m. with the end of Tape Number 1.  
6 (Recess from 10:03 to 10:21)

7 THE VIDEOGRAPHER: Please stand by. We  
8 are back on the record at 10:21 a.m. with the  
9 beginning of Tape Number 2.

10 Q. (BY MS. ST. PETER-GRIFFITH) Sir, I just want  
11 to confirm that other than what you've already  
12 testified to before the break that you -- you don't  
13 recall any other responsibilities that you had when  
14 you were the reimbursement supervisor.

15 A. Well, I still can't recall that special  
16 project. Maybe that will come. But I guess there  
17 would be one other responsibility, which was that --  
18 you know, during that period of time the business was  
19 establishing new relationships, new -- new contracts  
20 with new clients and as a reimbursement supervisor I  
21 was -- I had a responsibility to meet with them to,  
22 you know, train and educate the clients about what we  
23 would be doing for them to work out aspects of  
24 interfaces as to what the client would do and what  
25 Abbott's business unit would be doing in the areas of

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1 reimbursement, that sort of thing.

2 Q. Okay.

3 A. So that -- that -- I mean, I would consider  
4 that also a fairly major portion of it.

5 Q. Sir, we are going to come back to your tenure  
6 as a reimbursement specialist in detail, but I want to  
7 move on to -- after you left as -- after you left the  
8 reimbursement area and became a financial analyst.

9 Other than doing the risk analyses and  
10 working with the accounts receivables, from '98 until  
11 approximately late '99 did you have any other  
12 responsibilities?

13 A. I was, as I had mentioned earlier, the chair  
14 of the Home Fusion EDI Coalition and I was doing  
15 activities during that time, although I can't really  
16 recall any specifics. And if I had other  
17 responsibilities, I'm not recalling them is the best  
18 way to answer that.

19 Q. Okay. And did you -- when you were  
20 reimbursement manager, was there anyone else who was  
21 also a reimbursement manager with you?

22 A. Well, I was reimbursement supervisor.

23 Q. Okay.

24 A. And -- excuse me. There were three people  
25 that I'm remembering. The one who was their -- well,

16 (Pages 58 to 61)

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1 three people that I'm remembering during the time that  
2 I was reimbursement supervisor and the one who had the  
3 most tenure, her name is Nancy McLoughlin.

4 THE WITNESS: Do you need that?  
5 M-c-L-o-u-g-h-l-i-n.

6 A. There was another fellow named Tim Miller,  
7 who was there more briefly, as well as another woman  
8 named Angela Starks, who was also there more briefly.

9 Q. Okay. And, sir, I would like to take you to  
10 late '99 until 2000, approximately when the  
11 announcement was made that the home infusion business  
12 was shutting down.

13 A. Uh-huh.

14 Q. First I want to ask you, how was that  
15 announcement made?

16 A. Well, I guess my recollection is that those  
17 of us deemed to be part of the management team were  
18 told the news by the general manager. I'm sort of  
19 remembering a meeting in a conference room. That's  
20 what I recall now.

21 Q. Who's the general manager?

22 A. Mike Sellers.

23 Q. Okay. Was he in your supervisory chain?

24 A. Well, we had all reported in to Mike Sellers,  
25 who was general manager of the business during that

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1 time.

2 Q. Okay. And did Mr. Sellers give a reason as  
3 to why the home infusion business was -- would be  
4 shutting down?

5 A. My recollection is that Abbott had objectives  
6 that had been established for sizes of businesses in  
7 total revenues that Abbott was interested in in the  
8 future and that this business unit was not of that  
9 size and was never projected to be.

10 Q. Okay. Who else was in that meeting when  
11 Mr. Sellers advised that --

12 A. That's too long ago. I could not remember  
13 any specifics.

14 Q. Okay.

15 MR. STETLER: But let her finish her  
16 question, because I think she wasn't quite done.  
17 You're stepping on her a little bit is what I'm  
18 saying.

19 THE WITNESS: Sorry.

20 Q. (BY MS. ST. PETER-GRIFFITH) Sir, other than  
21 being the project manager for CHIPS in the late '99 to  
22 2000 time frame, did you have any other  
23 responsibilities other than what you described with  
24 regard to retaining the risk analyses  
25 responsibilities?

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1 A. I was the -- I called it product manager for  
2 the CHIP system, and that time frame was from about  
3 2002-2003. My estimate of when I was the financial  
4 analyst was 1988 to 19 -- I'm sorry, 1998 to 1999 and  
5 I recall that I continued serving in that role, also,  
6 during that time that I was the product manager for  
7 the CHIP system from 2000 to 2003.

8 Q. Okay.

9 A. And then, as I had said earlier, I was  
10 involved as the chair of the home infusion EDI  
11 coalition and there were many activities and those are  
12 or is promoting what we were trying to do, "we"  
13 meaning the Home Infusion EDI Coalition, in achieving  
14 a standardization of coding and promotion of the  
15 development of electronic claiming that I was also  
16 involved in during that time.

17 Q. Was it during this time frame that your title  
18 was manager of client services?

19 A. It was -- my estimate is 2000 to 2003 was  
20 when I had that title.

21 Q. Okay. And did you have any other  
22 responsibilities --

23 A. It was really 2000 to 2002, I'm sorry,  
24 because I left in early January 2003.

25 Q. Okay. Do you recall any other

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1 responsibilities that you had from the -- during the  
2 2000 to 2003 time frame?

3 A. No, I don't.

4 Q. Have we exhausted your recollection of all of  
5 your responsibilities that you had when you were an  
6 employee within the Abbott Home Infusion unit?

7 A. I think it's possible that something else  
8 might come to mind more on a special project-type  
9 basis, but I think we've covered it pretty well.

10 Q. Okay. Sir, what I would like to do -- first,  
11 let me ask you, how was your relationship with  
12 Mr. Snouffer?

13 A. Professional.

14 Q. What about your relationship with  
15 Ms. Kreklow?

16 A. I'm sorry, with who?

17 Q. Ms. Kreklow, Karla Kreklow.

18 A. Good.

19 Q. Okay. And your relationship with Mr. Harper?

20 A. Professional.

21 Q. Did you have any difficulties with either  
22 Mr. Harper or Mr. Snouffer?

23 A. Not really. It was professional. They were  
24 both in tough positions and so -- but we worked  
25 together professionally.

17 (Pages 62 to 65)

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1 Q. When you say they were both in tough  
2 positions, what do you mean?  
3 A. Well, I had already told you earlier my  
4 perceptions of it was difficult to work for Virginia  
5 Tobiason and they were in tough positions because they  
6 were now working for her directly.  
7 Q. Okay. Do you think that they had good  
8 relationships with her?  
9 A. I think Mr. Harper definitely did not and I  
10 think Mr. Snouffer managed to make it.  
11 Q. Let me ask you who within your division,  
12 while you were in Home Infusion, did have a good  
13 relationship with Ms. Tobiason, if anyone?  
14 A. Well, I think that in general Virginia had  
15 the respect of many of -- colleagues in other areas  
16 within the business unit and she -- you know, in many  
17 aspects she had my respect, too. So I think that  
18 those that actually worked directly for her had  
19 difficulties in general. I think that those who were  
20 colleagues, I think some of them probably had heard  
21 that there would be difficulties in working for her,  
22 but I think that they respected her and I'm not really  
23 aware of any issues in those areas for her colleagues  
24 outside of those that worked -- that reported to her.  
25 Q. Prior to coming to the Home Infusion unit,

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1 did you work with any of the -- or were you familiar  
2 with any of the Hospital Product Division products  
3 sold by Abbott?  
4 A. Not really.  
5 Q. Prior to coming to the Home Infusion area did  
6 you have an understanding as to how Medicaid or  
7 Medicare reimbursed for drugs or products sold by  
8 Abbott to its customers?  
9 A. No.  
10 Q. Sir, I'm going to ask you if you're familiar  
11 with some terms before we get into your familiarity  
12 with reimbursement.  
13 A. Certainly.  
14 Q. AWP we've gone over. Other than the  
15 definitions or your understandings of AW -- your  
16 understanding of AWP as you testified to earlier, did  
17 you have any other understanding as to what the term  
18 "AWP" or "average wholesale price" means?  
19 MS. FUMERTON: Objection, form.  
20 A. Not that I can recall.  
21 Q. (BY MS. ST. PETER-GRIFFITH) "Contract  
22 price," what's your understanding of that term?  
23 A. I don't have a specific understanding of that  
24 term. As a general business person I guess I could  
25 make an assumption, but I don't have a specific

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1 understanding of that in any of this context.  
2 Q. Okay. What about direct price?  
3 A. Same thing.  
4 Q. What about WAC?  
5 MS. FUMERTON: Objection, form.  
6 A. Yeah. Wholesale acquisition cost. I now  
7 know it means that. You know, back when I was  
8 involved with the reimbursement supervision  
9 responsibility, I really don't even recall hearing the  
10 term.  
11 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Is that  
12 your understanding of what WAC references, wholesale  
13 acquisition cost?  
14 A. That's my -- that's my -- well, my  
15 understanding now. Remember, earlier I said I think I  
16 know more now than I did then. And my understanding  
17 now is that that's what it stands for.  
18 Do I really know how it's -- the term is  
19 computed, what it really means, do I think I know  
20 that? No.  
21 Q. Okay. Sir, do you -- or when did you come to  
22 understand what "WAC" means?  
23 A. My recollection of the first time of hearing  
24 that term was probably after I had left the  
25 reimbursement supervisor responsibilities, but while I

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1 was still with Abbott and I think there was -- well,  
2 that there was some activity that I'm not recalling  
3 right now, frankly, but Mike Snouffer was involved in,  
4 among other things, trying to figure out what some of  
5 these terms were and my recollection is hearing that  
6 at that time for the first time.  
7 Q. Okay.  
8 A. I wasn't directly involved.  
9 Q. Do you remember in what context you heard it?  
10 A. I don't.  
11 Q. DOG -- DOJ AWP.  
12 MS. FUMERTON: Objection, form.  
13 A. There was an activity by the federal  
14 government, as I recall it, sometime around the year  
15 2000, I guess. I would think -- my estimate is around  
16 2000. And from that there was a determination of AWP  
17 pricing for some drugs by the Department of Justice.  
18 My recollection is those were published, that -- my  
19 recollection is that those were being adopted for  
20 reimbursement to providers by some of the state  
21 Medicais. That's my recollection.  
22 Q. (BY MS. ST. PETER-GRIFFITH) And where did  
23 you learn that -- or how did you come to have that  
24 understanding of what DOJ AWP means?  
25 A. I really don't recall.

18 (Pages 66 to 69)

## FREDERICKS-CARROLL REPORTING

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<p style="text-align: right;">Page 70</p> <p>1 Q. Okay.</p> <p>2 A. Sorry.</p> <p>3 Q. Is it fair to say that you learned about it</p> <p>4 in the context of your employment with Abbott?</p> <p>5 A. I think it's fair to say I learned it while I</p> <p>6 was employed at Abbott. I -- I am reasonably certain</p> <p>7 that it was past when I was responsible for the</p> <p>8 reimbursement directly, which is why I am estimating</p> <p>9 it was in 2000. I think I provided a newspaper</p> <p>10 clipping from USA Today in about 2000 that may have</p> <p>11 been talking about that as part of the evidence. It</p> <p>12 was just an article.</p> <p>13 Q. Do you remember discussing the DOJ AWP's with</p> <p>14 anyone at Abbott?</p> <p>15 A. I cannot recall any specific discussions. My</p> <p>16 expectation is I probably did.</p> <p>17 Q. Do you have an understanding as to how Abbott</p> <p>18 reacted to the publication of the DOJ AWP's?</p> <p>19 MS. FUMERTON: Objection, form.</p> <p>20 A. No. I'm really not aware of any specific</p> <p>21 reaction.</p> <p>22 MS. ST. PETER-GRIFFITH: If you could</p> <p>23 just give me a second.</p> <p>24 Q. (BY MS. ST. PETER-GRIFFITH) Sir, I would</p> <p>25 like to show you what's been marked in a prior</p>	<p style="text-align: right;">Page 72</p> <p>1 Infusion Services would have a concern about</p> <p>2 reductions in reimbursement because reimbursement was</p> <p>3 important to that business unit and ultimately its</p> <p>4 financial results. And, therefore, monitoring</p> <p>5 developments such as this and providing information to</p> <p>6 the Abbott Home Infusion Services business unit people</p> <p>7 was something that would be important.</p> <p>8 I, evidently, must have been asked by</p> <p>9 Karla Kreklow, I don't recall, to see what I could</p> <p>10 find out and I did, evidently, some searching on the</p> <p>11 Internet, or elsewhere, to find out and that was the</p> <p>12 result of what I did this letter on. I actually don't</p> <p>13 recall at all that there was a proposal. I see a</p> <p>14 point one to -- for Medicare to adopt DOJ AOGs. I</p> <p>15 don't have a recollection of that, but I read it here.</p> <p>16 Q. Okay. You mean DOJ AWP's?</p> <p>17 A. That's what it says here, yes.</p> <p>18 Q. Sir, do you know whether the adoption of or</p> <p>19 the decision to publish the DOJ AWP's by the federal</p> <p>20 government contributed to or caused the decision to</p> <p>21 close the Home Infusion unit?</p> <p>22 A. I do not know that.</p> <p>23 Q. Is it possible?</p> <p>24 MS. FUMERTON: Objection to form.</p> <p>25 A. I have no knowledge of that whatsoever.</p>
<p style="text-align: right;">Page 71</p> <p>1 deposition in this case as Exhibit 1114 to see if that</p> <p>2 refreshes your recollection.</p> <p>3 MS. FUMERTON: Do you have another copy</p> <p>4 of that?</p> <p>5 MS. ST. PETER-GRIFFITH: We don't.</p> <p>6 MS. FUMERTON: Can I just look at it</p> <p>7 briefly?</p> <p>8 MR. STETLER: Why don't we just look at</p> <p>9 yours while we're doing it if it's not marked up and</p> <p>10 we'll hand it back.</p> <p>11 MS. ST. PETER-GRIFFITH: Yeah. Just --</p> <p>12 (tenders document).</p> <p>13 A. (Witness reviewing document).</p> <p>14 (Discussion off the record)</p> <p>15 Q. (BY MS. ST. PETER-GRIFFITH) Are you ready,</p> <p>16 sir?</p> <p>17 A. (Nodded head affirmatively).</p> <p>18 (Discussion off the record)</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) Sir, does this</p> <p>20 refresh your recollection about any conversations that</p> <p>21 you might have had or communications that you might</p> <p>22 have had with anyone at Abbott concerning the DOJ</p> <p>23 AWP's?</p> <p>24 A. Actually, it doesn't. I'm confident this is</p> <p>25 my e-mail. You know, I -- I -- you know, Abbott Home</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>2 A. And no reason to believe that. The best</p> <p>3 answer I can give you.</p> <p>4 Q. Sir, there's another term I would like to ask</p> <p>5 you whether you're familiar with and that's RxLink</p> <p>6 price.</p> <p>7 A. I'm not familiar with that now.</p> <p>8 Q. Okay. Do you know what RxLink is?</p> <p>9 A. I don't now.</p> <p>10 Q. List price?</p> <p>11 A. As a business person list price would be what</p> <p>12 any customer could buy from any supplier selling a</p> <p>13 product or service, even, at a noncontractual</p> <p>14 relationship and pay for the product or service.</p> <p>15 Q. Did -- did list price have any special</p> <p>16 significance at Abbott?</p> <p>17 MS. FUMERTON: Objection, form.</p> <p>18 A. I was never involved in the establishment,</p> <p>19 setting of strategy of any sort of pricing at Abbott</p> <p>20 and, therefore, I can't give you an answer of anything</p> <p>21 that I know about it.</p> <p>22 Q. (BY MS. ST. PETER-GRIFFITH) Who was</p> <p>23 responsible for setting prices at Abbott within the</p> <p>24 Hospital Products Division?</p> <p>25 A. I don't believe that I know that.</p>

19 (Pages 70 to 73)

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<p>1 Q. Okay.</p> <p>2 A. I mean, I don't.</p> <p>3 Q. What about catalog price?</p> <p>4 A. Same thing.</p> <p>5 Q. What do you mean "same thing"?</p> <p>6 A. I don't know that.</p> <p>7 Q. You don't know what that term means?</p> <p>8 A. No. I don't know who is responsible for it.</p> <p>9 Q. Okay. Sorry.</p> <p>10 A. Sorry.</p> <p>11 Q. I'm sorry. I should have --</p> <p>12 A. Okay.</p> <p>13 Q. -- clarified my question.</p> <p>14 A. Okay.</p> <p>15 Q. Are you familiar with the term "catalog</p> <p>16 price"?</p> <p>17 MS. FUMERTON: Objection, form.</p> <p>18 A. No, I'm not.</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Did</p> <p>20 Abbott publish a catalog?</p> <p>21 A. Yes.</p> <p>22 Q. Why did Abbott publish a catalog?</p> <p>23 MS. FUMERTON: Objection to form.</p> <p>24 A. I don't know why Abbott -- not having been</p> <p>25 involved, I can't give you any specific knowledge as</p>	<p>1 is -- this is more recent development and well beyond</p> <p>2 my tenure with Abbott.</p> <p>3 Q. Okay. Then let me divide up my question.</p> <p>4 While you were at Abbott did you have an understanding</p> <p>5 as to the term "ASP"?</p> <p>6 A. I don't think it existed at that time.</p> <p>7 Q. Okay. What is your current understanding of</p> <p>8 the term "ASP"?</p> <p>9 A. It stands for "average sales price." It's a</p> <p>10 benchmark that has been developed by the government as</p> <p>11 a result of the Medicare Modernization Act to</p> <p>12 reimburse certain -- reimburse drugs to providers for</p> <p>13 much of the Part B, B as in boy, reimbursement in</p> <p>14 Medicare.</p> <p>15 It is -- at the highest level, which is</p> <p>16 probably my best understanding as opposed to detail,</p> <p>17 but at the highest level it's supposed to be a</p> <p>18 reflection of the -- the aggregate pricing for drug</p> <p>19 products that manufacturers are reporting to the</p> <p>20 government as what they receive when they are paid for</p> <p>21 the drug products by whomever they are paid for and</p> <p>22 it's supposed to be net of discounts and that sort of</p> <p>23 thing.</p> <p>24 Q. Okay. What about "NASP," are you familiar</p> <p>25 with that term?</p>
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<p>1 to why Abbott would publish a catalog. As a business</p> <p>2 person, why would any company publish a catalog of</p> <p>3 it's products, it seems fairly obvious to me. But as</p> <p>4 an Abbott employee and why Abbott would do that, I was</p> <p>5 never involved.</p> <p>6 Q. Do you know what prices were reported in</p> <p>7 Abbott's catalog?</p> <p>8 A. I really don't.</p> <p>9 Q. Did you use Abbott's catalog?</p> <p>10 A. I used Abbott's catalog from time to time</p> <p>11 simply to understand what the products were that we</p> <p>12 would be billing for at times on a reimbursement</p> <p>13 basis. You know, if it talked about an extension set,</p> <p>14 as I was learning the business I wanted to know what</p> <p>15 an extension set was, so I would look it up to see if</p> <p>16 I could figure it out. That's my recollection of how</p> <p>17 I would use that.</p> <p>18 Q. Did you refer to the catalog for pricing</p> <p>19 information?</p> <p>20 A. Not that I can recall.</p> <p>21 Q. "ASP," are you familiar with that term?</p> <p>22 MS. FUMERTON: Objection, form.</p> <p>23 A. Very.</p> <p>24 Q. (BY MS. ST. PETER-GRIFFITH) What is that?</p> <p>25 A. Well, this is far beyond -- this is -- this</p>	<p>1 A. What?</p> <p>2 Q. NASP.</p> <p>3 A. N as in Nancy?</p> <p>4 Q. Yes.</p> <p>5 A. No, I'm not.</p> <p>6 Q. Redbook, are you familiar with that term?</p> <p>7 A. I am.</p> <p>8 Q. What is Redbook?</p> <p>9 A. Redbook is one of the -- Redbook is provided</p> <p>10 by one of the drug compendium companies that provides</p> <p>11 pricing and some other information on drugs and</p> <p>12 Redbook is a product of one of them.</p> <p>13 Q. Okay. What are the other pricing compendia</p> <p>14 that you're familiar with?</p> <p>15 MS. FUMERTON: Objection, form.</p> <p>16 A. Medi-Span and First DataBank --</p> <p>17 Q. (BY MS. ST. PETER-GRIFFITH) And --</p> <p>18 A. -- as I recall.</p> <p>19 Q. -- when did you first become familiar with</p> <p>20 pricing compendia?</p> <p>21 A. That would be when I was at Abbott Home</p> <p>22 Infusion Services in the -- in my tenure as</p> <p>23 reimbursement supervisor.</p> <p>24 Q. Okay. And how did you become familiar with</p> <p>25 these pricing compendia?</p>

20 (Pages 74 to 77)

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1 A. Well, as I had explained earlier this  
 2 morning, the predominant methodology for the  
 3 reimbursement of drugs to home infusion providers is  
 4 based upon AWP. And in Abbott's CHIP system, that I  
 5 explained earlier, which was a computer system used to  
 6 manage many aspects of the business, including  
 7 reimbursement, part of your billing process would be  
 8 to either submit charges based on AWP or at least  
 9 estimate that you are going to be paid on an AWP basis  
 10 for the determination of your accounts receivable.  
 11 And the CHIP system, there was a contract with the  
 12 company that produces Redbook to obtain that pricing  
 13 information so that it could be downloaded and  
 14 integrated into the CHIP system into its pricing logic  
 15 and kept current with periodic updates.  
 16 Q. How -- when you say, "submit charges based on  
 17 AWP," what do you mean?  
 18 A. There are, I would say, for the submission of  
 19 the drug charges two methods that is going to be  
 20 different payer by payer. One method is a provider  
 21 would submit a charge for the drug that is the  
 22 provider's what I would call list price. I might also  
 23 call it usual and customary price. And, however, the  
 24 payer may reimburse for the drug based upon AWP, which  
 25 is usually a percentage and these days a percentage

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1 reduction from that published AWP amount.  
 2 So from a standpoint of the provider's  
 3 estimating and -- and keeping track of its accounts  
 4 receivable, the provider would like to know what the  
 5 difference is between the usual and customary or a  
 6 list price that they've submitted and what they expect  
 7 to be paid, which would be something less. So that's  
 8 one method.  
 9 The second method would be the health  
 10 plan has actually -- you know, the health plan wants  
 11 to receive a claim that already has the AWP-base price  
 12 on it, not the list price. In both those cases your  
 13 ability to be able to do that, either to know your AR  
 14 or -- or -- or submit the claim with the -- the claim  
 15 with the AWP-base price is something that a provider  
 16 or a biller for the services used to be able to do.  
 17 And that was the reason that that information was  
 18 important for use in the CHIP system, so -- because  
 19 the CHIP system was used, in fact, to prepare those  
 20 claims that would be submitted to the health plans.  
 21 Q. Was AWP used for submitting claims for  
 22 reimbursement under J codes to Medicaid or Medicare?  
 23 A. For Medicare the billing would be done by --  
 24 with HCPCS drug codes, which you are calling J codes,  
 25 and those claims would have been, and still are by

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1 home infusion providers, submitted at their -- at the  
 2 home infusion provider's usual and customary list  
 3 price. Did I answer your question?  
 4 Q. I'm not sure, so let's get -- move to a  
 5 document, if we could.  
 6 A. Okay.  
 7 Q. I would like you to go to your -- your  
 8 documents, and I'm looking for this publication,  
 9 "DMERC Overview IV Claims." Do you see that? And  
 10 it's BR 3124 through 3491.  
 11 MR. STETLER: Give us about two minutes  
 12 and we'll set them up up here.  
 13 MS. ST. PETER-GRIFFITH: Sure.  
 14 THE WITNESS: Dave, I probably don't  
 15 need the original of this one, if you want to have  
 16 someone set up so we can move along.  
 17 MR. STETLER: You don't need the  
 18 original?  
 19 THE WITNESS: I probably don't.  
 20 MS. ST. PETER-GRIFFITH: I would like  
 21 for him -- I would like for you to refer to the  
 22 original.  
 23 THE WITNESS: Would you like me to?  
 24 MS. ST. PETER-GRIFFITH: Yes.  
 25 THE WITNESS: Well, then --

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1 MS. ST. PETER-GRIFFITH: Please.  
 2 MS. FUMERTON: Can I just -- I know you  
 3 have no -- I just want to see the cover because I --  
 4 MS. ST. PETER-GRIFFITH: Sure.  
 5 MS. FUMERTON: -- need the pages. I  
 6 promise I won't look.  
 7 MS. ST. PETER-GRIFFITH: That's okay.  
 8 Yeah. Why don't we go off the video for a second.  
 9 MR. STETLER: Because I assume we are  
 10 going to be digging back --  
 11 MS. ST. PETER-GRIFFITH: Yes.  
 12 MR. STETLER: -- in these boxes.  
 13 THE VIDEOGRAPHER: We are off the record  
 14 at 10:54 a.m.  
 15 (Recess from 10:54 to 10:58)  
 16 THE VIDEOGRAPHER: Please stand by. We  
 17 are back on the record at 10:58 a.m.  
 18 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if I could  
 19 have you flip to BR 03155 through BR 03157, which are  
 20 the little numbers you are going to see at the bottom  
 21 of the documents.  
 22 MS. ST. PETER-GRIFFITH: And, Counsel,  
 23 it's just their sample HCFA form.  
 24 MS. FUMERTON: Okay.  
 25 MS. ST. PETER-GRIFFITH: And then their

21 (Pages 78 to 81)

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1 sample formula of how you do it.  
 2 MS. FUMERTON: Is this just a sample? I  
 3 mean, we don't have any problems with --  
 4 MS. ST. PETER-GRIFFITH: No. No, no.  
 5 There are no -- there are no HIPAA issues here. I  
 6 assume that Jones, Marie from Anywhere, USA is not a  
 7 real person.  
 8 A. Okay.  
 9 Q. (BY MS. ST. PETER-GRIFFITH) Okay?  
 10 A. Uh-huh.  
 11 Q. Sir, first of all, let me ask you, what is  
 12 this document that -- in general that is in the  
 13 binder? Do you recognize it?  
 14 A. I do.  
 15 Q. What is it?  
 16 A. It's a document that was used for training of  
 17 the Home Infusion Services billing staff on billing to  
 18 Medicare for home infusion.  
 19 Q. And for -- sir, are you familiar with this  
 20 document?  
 21 A. Well, I'm -- I'm familiar with it in a  
 22 general sense. Am I familiar with every page? No,  
 23 not necessarily.  
 24 Q. Okay. Would it be -- was it something that  
 25 you used during the course of your tenure in the home

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1 infusion unit?  
 2 A. Well, this was an example of -- you had asked  
 3 me earlier how I learned the business in the  
 4 reimbursement, and this book was used by Shellie  
 5 Bronson for the training of the billing staff on  
 6 reimbursement for Medicare, how to -- how to submit  
 7 claims and how the process would work, essentially.  
 8 That's what this book is. So it was used as part of a  
 9 training class that Shellie would have performed.  
 10 Q. Okay. Sir, if you could flip to that first  
 11 3155 page and can you tell me, what is this document?  
 12 A. That is an example with -- some completion of  
 13 this example of a HCFA 1500 claim form.  
 14 Q. And what is a HCFA 1500 claim form?  
 15 A. It was used at that time for the submission  
 16 of healthcare claims for services and products to many  
 17 health plans.  
 18 Q. And would the -- including Medicaid and  
 19 Medicare?  
 20 A. Including Medicare. Medicaid varied those 50  
 21 states and it would have been used to submit claims to  
 22 some Medicaid.  
 23 Q. Okay. Do you remember which states --  
 24 A. Not specifically.  
 25 Q. -- used the HCFA 1500 form?

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1 A. I can tell you in general that for submission  
 2 of claims to Medicaid for drugs they were not and  
 3 still are not submitted on this form.  
 4 Q. I'm sorry? Can you repeat that?  
 5 A. In general for claims for drugs, as  
 6 distinguished from, say, administration supplies, in  
 7 general those claims at that time submitted by a home  
 8 infusion provider to a Medicaid plan were not  
 9 submitted on this HCFA 1500 form.  
 10 Q. How were they submitted?  
 11 A. They were submitted either on a specific drug  
 12 claim form or they were submitted electronically  
 13 through an electronic drug claim.  
 14 Q. Okay. And would that be an electronic HCFA  
 15 form?  
 16 A. Generally not.  
 17 Q. Okay.  
 18 A. And still is not.  
 19 Q. Okay. That's to Medicare?  
 20 A. To Medicaid.  
 21 Q. To Medicaid. I'm sorry. Sir, for -- on this  
 22 sample, do you see at the bottom under Item 24, that  
 23 first line one where they have some dates of service  
 24 and then there's a J number?  
 25 A. Uh-huh.

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1 Q. What is that J number?  
 2 A. That would represent a drug.  
 3 Q. Okay. Do you know which drug that  
 4 represented?  
 5 A. Not offhand.  
 6 Q. Okay. If you could flip to the next page.  
 7 And, sir, what is this document?  
 8 A. That actually is a copy of an itemized detail  
 9 list, I think we called it, that would print off from  
 10 the CHIP system for a claim that provides detail of  
 11 what was being billed to the payer.  
 12 Q. Okay. Do you see that J number that was on  
 13 the --  
 14 A. I do.  
 15 Q. -- page before?  
 16 A. Uh-huh.  
 17 Q. And what -- what drug is -- is described?  
 18 A. Vancomycin.  
 19 Q. Okay. If you could flip to the -- the HCFA  
 20 1500 form, the one we were looking at before.  
 21 A. Uh-huh.  
 22 Q. Sir, do you see under Section F -- now, let  
 23 me ask you, is this a sample that individuals within  
 24 the reimbursement department could refer to in  
 25 assisting them in filling out HCFA 1500 forms?

22 (Pages 82 to 85)

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<p style="text-align: right;">Page 86</p> <p>1 A. Well, it was used in training of those 2 billers and they would be given this book. And how 3 they would use it, I mean, I guess one would suspect 4 that they probably did refer to it. 5 Q. Okay. Let me ask you. When -- first, did -- 6 did Home -- the Home Infusion reimbursement department 7 submit itself HCFA 1500 forms to Medicare or some 8 state Medicaid programs? 9 A. Yes. 10 MS. FUMERTON: Objection, form. 11 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Under 12 what circumstances would it submit HCFA 1500 forms to 13 the Medicaid program or Medicare? 14 MS. FUMERTON: Objection, form. 15 A. For Medicare, those forms would be submitted 16 to pay for the -- the home infusion therapy services 17 and product provided to patients that were being 18 billed for. 19 To Medicais, as I had explained 20 earlier, there were 50 states, and still are, and they 21 have different processes. For some of those states 22 this form would be used to bill for nondrug products. 23 I suppose it's possible that in some states it could 24 have been used to submit drug claims on. I'm not 25 aware -- I don't recall that specifically.</p>	<p style="text-align: right;">Page 88</p> <p>1 instances, it would be submitted under Abbott's name 2 and, therefore, Abbott's tax ID. 3 Q. Okay. And, sir, if I could refer you again 4 to that J number. Do you see that? 5 A. Uh-huh. 6 Q. Okay. Is it fair to say that -- strike that. 7 When a J number is used in that -- under 8 Section D where it says, "Procedures, Services or 9 Supplies"? 10 A. Yes. 11 Q. What -- what does that mean when there's a 12 number that has a J before it? 13 A. It means that you're billing for a drug. 14 Q. Okay. And do you see over in Section F -- 15 A. Yes. 16 Q. -- "Charges"? 17 A. Yes. 18 Q. How -- for Abbott pharmacies, how is that 19 charges number determined? 20 A. Well, this specifically is a sample, and I 21 didn't make it up, so I can't say anything about how 22 this one was done. 23 Q. Okay. But when you were in -- when you were 24 in the reimbursement department, where would the 25 reimbursement department employees get the information</p>
<p style="text-align: right;">Page 87</p> <p>1 So the distinction between the Medicare 2 and the Medicaid is that the way of submitting claims 3 to Medicaid at that time, and still now, would not be 4 through this form. Whereas, for Medicare it would be, 5 if it's submitted on paper. And at that time they 6 were submitted -- I need to back off on that. At that 7 time they were submitted on paper as well as 8 electrically to Medicare and if they were submitted 9 electronically, meaning computer to computer, you 10 wouldn't have a paper form that was sent in, but the 11 equivalent information would be sent on the claim. 12 Q. (BY MS. ST. PETER-GRIFFITH) Okay. And would 13 Abbott's Home Infusion reimbursement department seek 14 reimbursement from the Medicare program and from 15 Medicaid, in some instances, using the HCFA 1500 form 16 for drugs distributed by its own -- Abbott's own 17 pharmacies? 18 MS. FUMERTON: Objection, form. 19 A. Or electronically. Yes, there would be 20 occasions. 21 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Do you 22 know what federal tax ID number the reimbursement 23 department would use when identifying claims for which 24 Abbott's pharmacies were seeking reimbursement? 25 A. Well, it would be -- in many, if not most</p>	<p style="text-align: right;">Page 89</p> <p>1 for the charges that would need to be completed for 2 drugs that were billed to Medicare or Medicaid? 3 A. From the computer -- 4 MS. FUMERTON: Objection, form. 5 A. From the computer system. 6 Q. (BY MS. ST. PETER-GRIFFITH) Okay. What 7 computer system? 8 A. The CHIP computer system. 9 Q. Okay. And what -- where would that 10 information be on the CHIP computer system? 11 A. That would reside in what was called an item 12 file. 13 Q. Okay. And where did the charge information 14 from the item file come from? 15 MS. FUMERTON: Objection, form. 16 A. Well, there would be, basically, a price 17 field or fields, and my memory is getting hazy here, 18 and someone was responsible for maintaining those 19 prices and it wasn't the reimbursement department. 20 Q. (BY MS. ST. PETER-GRIFFITH) Do you know who 21 it was? 22 A. My recollection is it would be what was 23 called the contract marketing department in Abbott 24 Home Infusion Services. 25 Q. And do you know who had --</p>

23 (Pages 86 to 89)

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<p style="text-align: right;">Page 90</p> <p>1 A. If it was -- if it was billed under Abbott's 2 name, as I had explained earlier. 3 Q. Okay. 4 A. Okay. 5 Q. If it wasn't -- now, let me go back. Were 6 there occasions when Abbott's Home Infusion 7 reimbursement department would submit claims on behalf 8 of Abbott's customers? 9 A. Yes. 10 Q. Okay. Under what circumstances would that 11 occur? 12 A. Many of Abbott's Home Infusion Services 13 customers had their own pharmacies and so the -- you 14 know, to -- to outside parties, hands off. It was a 15 business of one of the customers and had a d/b/a name 16 that would reflect whatever the name reflected. 17 Abbott wouldn't even appear on it and that was part 18 of -- that was how -- part of how Abbott ran Abbott 19 Home Infusion Services. 20 So -- so, therefore, the -- it is one of 21 the services provided to many, not all of the clients, 22 it was to provide the billing service, meaning the 23 people that I managed a portion of. And so those 24 claims would be submitted to health plans under the 25 name of the customer.</p>	<p style="text-align: right;">Page 92</p> <p>1 A. It was my understanding that they did not. 2 Q. Okay. When Abbott provided the reimbursement 3 services, that is, fill it completing the HCFA 1500 4 forms -- 5 A. Uh-huh. 6 Q. -- first of all, who's federal tax ID number 7 would be completed on the form if they were -- if they 8 were providing a service on behalf of a customer? 9 A. It would be the customer's. 10 Q. Okay. Was that information that the 11 reimbursement department maintained then? 12 A. What does that mean? 13 Q. Meaning -- meaning did you -- did the 14 reimbursement department have the customer's federal 15 tax ID number? 16 A. Yes. And it would be in the computer system. 17 Q. Okay. Which computer system? 18 A. The CHIP computer system. 19 Q. Okay. Where would that information 20 concerning the customer's tax -- federal tax ID number 21 be found? In a particular file? 22 A. Yeah. 23 Q. Okay. Do you know what the name of that file 24 is? 25 A. Not offhand. Conceptually we had a file</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Would they also be submitted to Medicare and 2 Medicaid? 3 A. Yes. 4 Q. Okay. Is it fair to say that some of 5 Abbott's Home Infusion clients would contract with 6 Abbott to provide the service of billing third-party 7 payers? 8 A. Yes. 9 Q. Okay. Are you familiar with contracts that 10 Abbott had with customers who received consigned 11 goods? 12 A. That was -- 13 MS. FUMERTON: Objection, form. 14 A. That was one of the types of contractual 15 relations that Abbott had -- 16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. 17 A. -- in that business unit, yes. 18 Q. Under the -- under the contractual 19 relationship where Abbott had -- where Abbott provided 20 consigned goods to its customers, how much would those 21 customers pay for the drugs and products provided by 22 Abbott to them? 23 A. I don't know. 24 Q. Do you know whether they paid anything prior 25 to being reimbursed by a third-party payer?</p>	<p style="text-align: right;">Page 93</p> <p>1 structure that allowed the identification of a 2 customer. 3 Q. Okay. And, sir, in a situation like -- like 4 the one reflected on this page where a -- where, for 5 example, Vancomycin would be billed on behalf of a 6 client -- 7 A. Uh-huh. 8 Q. -- what number would be completed in the 9 charges Section F after the J code procedure or J code 10 number? 11 A. It depends on who the plan was. 12 Q. What do you mean it depends upon who -- 13 A. Medicare/Medicaid, private health plan. 14 Q. Okay. If they were billing -- so the charges 15 section could vary depending upon who the plan was? 16 A. Yes. 17 Q. Okay. If the plan was Medicare, where would 18 you get the information concerning the charges that 19 needed to complete -- be completed in Section F? 20 MS. FUMERTON: Objection, form. 21 A. There was a certain amount of automation in 22 the CHIP system that, my recollection is, we improved 23 over time, but it still required some manual review 24 and, perhaps, manipulation by the billers. But those 25 charges to Medicare should have been the sum total of</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 the usual and customary equal list price for the drug  2 that had been established to bill to payers for which  3 you -- to whom you billed list price to and Medicare  4 is one of those.  5 Q. (BY MS. ST. PETER-GRIFFITH) Okay. So you  6 billed list price to Medicare?  7 A. Yes.  8 Q. Okay. And where would the list price be  9 derived from?  10 MS. FUMERTON: Objection, form.  11 A. The list price would be found from the data  12 in the CHIP system's item file.  13 Q. (BY MS. ST. PETER-GRIFFITH) And, sir, did it  14 ever -- was there ever any time when Abbott, either  15 submitting claims on behalf of itself, its pharmacies,  16 or submitting claims on behalf of its customers, when  17 it ever -- was there ever a time when Abbott did not  18 list the list price in the charges section when it was  19 billing for J code of a drug?  20 MS. FUMERTON: Objection, form.  21 A. To Medicare?  22 Q. (BY MS. ST. PETER-GRIFFITH) To Medicare.  23 A. That -- there should not have been those  24 times to the best of our ability to do it the way it  25 should have been done.</p>	<p style="text-align: right;">Page 96</p> <p>1 residing in the contract marketing department.  2 Q. Do you know whether it's possible that the  3 contract marketing department -- strike that.  4 Was David Brincks in the contract  5 marketing department?  6 A. Yes. He was the manager for quite some time.  7 Q. Okay. If David Brincks obtained the  8 information from the contract marketing and Hospital  9 Business Sector, would that surprise you?  10 MS. FUMERTON: Objection, form.  11 A. I have no knowledge of that.  12 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Do you  13 know at all whether -- do you have any indication  14 whatsoever as to whether the list price used by the  15 Abbott Home Infusion was any different than the list  16 price used by any other business unit within the  17 Hospital Products Division?  18 A. I don't --  19 MS. FUMERTON: Objection, form.  20 A. I have no information on that.  21 Q. (BY MS. ST. PETER-GRIFFITH) At any time did  22 anyone ever question the lawfulness of using list  23 price in completing the HCFA 1500 form under charges,  24 Section F, either on behalf of Abbott's pharmacies or  25 on behalf of Abbott clients?</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. Was there ever any discussion as to whether  2 the charges section on the -- on -- billed to Medicare  3 on this HCFA 1500 form was accurate if the list price  4 was used?  5 MS. FUMERTON: Objection, form.  6 Q. (BY MS. ST. PETER-GRIFFITH) Do you  7 understand my question?  8 A. Well, not really.  9 Q. Okay. Did any -- let me see if I can  10 rephrase it.  11 Did anyone ever question whether another  12 number, other than list price, should be used when  13 billing J codes to Medicare, either on behalf of  14 Abbott's pharmacies or on behalf of Abbott's clients?  15 A. Not that I know of. Now, I do want to say  16 that this is the list price of the Abbott Home  17 Infusion Services business unit. That's not  18 necessarily the same list price as any other branch of  19 Abbott might have had.  20 Q. Okay. But do you know where -- were you  21 responsible or did you participate in setting the list  22 price for the Abbott Home Infusion?  23 A. No.  24 Q. Do you know who was?  25 A. My recollection is it would have been</p>	<p style="text-align: right;">Page 97</p> <p>1 MS. FUMERTON: Objection, form.  2 A. List price, as I told you, being the list  3 price set by the Abbott Home Infusion Services  4 business unit and the question being at any time did  5 anybody question the legality of it. No one  6 questioned me or did I ever hear any question on it,  7 none that can I recall.  8 Q. (BY MS. ST. PETER-GRIFFITH) Why didn't  9 Abbott when charging the -- strike that.  10 When Abbott completed the HCFA 1500 form  11 seeking J -- reimbursement for J codes of a particular  12 drug on behalf of its pharmacies --  13 A. Uh-huh.  14 Q. -- why didn't it use either its cost or a  15 number that was slightly in excess of its cost?  16 MS. FUMERTON: Objection, form.  17 A. This business unit was very different from  18 almost anything else at Abbott. You know, when Abbott  19 pharmacies perform the service, this business unit was  20 a healthcare provider.  21 When Abbott Home Infusion Services had  22 contracts with other clients who were providing many  23 services, you know, we were -- you know, we were -- we  24 were -- I don't want to say legally, but, you know, we  25 were -- we were contracted to provide services, but</p>

25 (Pages 94 to 97)

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<p style="text-align: right;">Page 98</p> <p>1 essentially we -- you know, in this business unit, at  2 least as I operated, I identified myself as a  3 healthcare provider. Healthcare providers have list  4 prices for their services and products. That's the  5 way they bill to payers. I had told you earlier they  6 may bill, or I had at least hinted at, they may bill  7 at list price or they may bill at some other rate that  8 is based upon a contract in terms of what they  9 actually submit to the payer. But this is the way  10 it's done. And, therefore, that's the way it was done  11 by this business unit.  12 Q. (BY MS. ST. PETER-GRIFFITH) When Abbott  13 billed at a J code on a HCFA 1500 form to Medicare,  14 either in electronic form or paper form, on behalf of  15 its contracting clients, those clients who contracted  16 for reimbursement services.  17 A. Uh-huh.  18 Q. Do you understand who I mean?  19 A. Yeah.  20 Q. Okay. Did it in the -- in the charges  21 section of Section F --  22 A. Uh-huh.  23 Q. -- report to the federal government the  24 actual charges that the consumer paid Abbott for the  25 drug?</p>	<p style="text-align: right;">Page 100</p> <p>1 A. No, no. The price would be established  2 through agreement with that entity, that customer, and  3 the Home Infusion Services business unit. There would  4 also be a list price established, which would not  5 necessarily be the same list price level that Abbott  6 would be using for its own business. There would  7 be -- there would be -- you know, that would be worked  8 out and that would be the charge that would be  9 submitted. It would be the list price.  10 Q. Who would set the list price for the  11 consumers or for the --  12 A. My recollection --  13 Q. -- Abbott contract customers?  14 A. My recollection is typically that was  15 something that was agreed to on parameters or pricing  16 between the Abbott contract marketing department and  17 the customer. And, you know, who actually entered the  18 data in, I don't know, frankly, but that's where it  19 would come from.  20 I think there would be other cases where  21 it was something totally determined by the customer  22 and Abbott may have -- may or may not have provided  23 them some consulting or training on how they may want  24 to think about how to go about it. But I think there  25 may have been cases when the customer could do it</p>
<p style="text-align: right;">Page 99</p> <p>1 MS. FUMERTON: Objection, form.  2 A. Well, for Medicare the consumer doesn't pay  3 for the drug to the healthcare provider and,  4 therefore, to Abbott. The claims are submitted to  5 Medicare, Medicare reimburses and then they're --  6 under Part B Medicare there is either an original  7 deductible or a co-pay and then the patient is billed  8 for that.  9 Q. (BY MS. ST. PETER-GRIFFITH) Okay. But in  10 terms of the charges completed on the charges section  11 of the HCFA 1500 form --  12 A. Uh-huh.  13 Q. -- would Abbott, on behalf of its clients for  14 whom it provided reimbursement services --  15 A. Uh-huh.  16 Q. -- report on that HCFA 1500 form --  17 A. Uh-huh.  18 Q. -- the cost actually paid by the client, by  19 Abbott's consumer, for the product that is being  20 billed?  21 MS. FUMERTON: Objection, form.  22 A. By "Abbott's consumer" you mean one of the  23 entities that Abbott was contracted with.  24 Q. (BY MS. ST. PETER-GRIFFITH) Yes. One of the  25 contract clients.</p>	<p style="text-align: right;">Page 101</p> <p>1 totally on their own.  2 Q. Do you know whether the customer would ever  3 set a charge, a list price charge, in seeking  4 reimbursement from the federal government at an amount  5 that was higher than Abbott's list price?  6 MS. FUMERTON: Objection, form.  7 A. Again, Abbott list price being the list price  8 of Abbott Home Infusion. There could have been. Do I  9 have specific knowledge of that? No.  10 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Why would  11 Abbott let the customer set the charge -- the list  12 price charge for --  13 A. Because it was the customer's business.  14 Q. Did Abbott have any concern about the  15 accuracy of that information since Abbott was the one  16 actually submitting the claim form on behalf of the  17 customer?  18 A. What do you mean by "accuracy"?  19 Q. Meaning they -- meaning did Abbott ever have  20 a concern that they might -- that the number might be  21 an overcharge?  22 MS. FUMERTON: Objection, form.  23 A. Yeah. As a basic quality control in the  24 reimbursement department, if we saw something that was  25 totally -- it just appeared to be out of line because</p>

26 (Pages 98 to 101)

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1 someone had been doing this, you know, quite  
2 frequently and said this just doesn't seem right,  
3 then, yeah, there would be that type of concern and  
4 there might be some follow activities with --  
5 follow-up activities with the customer to take a look  
6 at it.

7 Beyond that, you know, the concern with  
8 accuracy was to properly take what was in the computer  
9 system and end up with a claim that added the numbers  
10 up right. And, yeah, that was a concern and there  
11 were some tools in the computer system to try and  
12 prevent mistakes on that.

13 So, you know, we had that general  
14 concern of just billing accuracy based on the list  
15 price that was supposed to be -- you know, that was in  
16 the computer system. But that's the extent of it, I  
17 think.

18 Q. (BY MS. ST. PETER-GRIFFITH) Would it be  
19 Abbott's list price in the computer system only or  
20 would the customer's list price also be there?

21 A. Well, if it was the cost -- no. No. If it  
22 was -- if it was the customer's business that was  
23 being billed for, it would be the customer's list  
24 price, period.

25 Q. Okay. And would you -- would you maintain a

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1 list of the customer's -- of each customer's list  
2 price?

3 A. Yes, that would be the case.

4 Q. Where would that be found?

5 A. In the item file of the CHIP system.

6 Q. Okay. How would you determine whether or not  
7 a charge was unusual or out of whack or too high for a  
8 particular J code?

9 A. You know, I guess the best I can say is if  
10 you've been billing it for a long time and just to  
11 pick a number and, you know, you've done enough of  
12 these and you think it ought to be a thousand dollars  
13 and you get one that's a hundred thousand dollars you  
14 might say, "This looks a little weird."

15 Q. For J codes billed on behalf of Abbott's  
16 clients, customers --

17 A. Uh-huh.

18 Q. -- reimbursement customers, on the HCFA 1500  
19 forms to the Medicare program, why weren't the charges  
20 reflective of the actual cost of the product to the  
21 customer?

22 A. As I explained before, this business unit was  
23 a healthcare provider. The list prices that any  
24 healthcare provider sets are -- are of their own  
25 discretion. How they base it upon is -- is -- is

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1 their determination of how to set that pricing. Could  
2 it be based on their costs? Yeah, it could. Could it  
3 be based on -- you know, what's the definition -- what  
4 is cost? Is that just the cost of acquisition or is  
5 that all of their costs? Could it be based on  
6 competitive factors? Sure it could. There are  
7 elements that go into it. So there would be no  
8 expectation in operating a business as a healthcare  
9 provider that you would necessarily be submitting a  
10 list price to any entity that was to be exactly your  
11 cost for acquisition.

12 Q. Okay. Was Abbott at all -- was Abbott Home  
13 Infusion reimbursement at all concerned that the  
14 prices -- the list prices set by their customers on  
15 whom they were submitting -- for whom they were  
16 submitting claims to Medicare were too high?

17 MS. FUMERTON: Objection, form.

18 A. At the -- the best I can say is at the -- you  
19 know, with the people that I worked with at Abbott  
20 Home Infusion Services, I never heard that concern.

21 Q. (BY MS. ST. PETER-GRIFFITH) Sir, when --  
22 when a price would be looked at that a customer had  
23 set and it appeared out of whack or too high, what  
24 would happen?

25 A. Well, I guess -- I guess I'm getting to the

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1 point of speculation here because I don't think that I  
2 was involved in that.

3 Q. Okay.

4 A. If -- if -- you know, if you're asking me  
5 did -- if a customer went -- went into the item file  
6 and they put a price in for any item that someone  
7 perceived as too much, I really don't recall any  
8 instances like that.

9 The type of instances I was saying  
10 earlier was if a biller working on a claim had  
11 realized that this just doesn't sound right, and based  
12 on their experience, mostly, I mean, entirely, then --  
13 then there could be just some questions asked and  
14 that's the extent of it.

15 Q. Okay. So -- but you never personally were  
16 involved in any situation where a client was  
17 questioned about the pricing of their -- of a  
18 particular J code?

19 A. You know, I could have been, but I really  
20 don't recall any situations like that.

21 Q. Okay. Sir, if you could flip to --

22 A. I mean, I do recall if you -- every once in a  
23 while there would be something really weird in an --  
24 in an -- in an AWP-type pricing coming from the  
25 compendia that we were using, or something like that,

27 (Pages 102 to 105)

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1 and I recall being involved in a few of those cases.  
2 That's a little different than list price.

3 Q. Which -- which -- what issues do you recall  
4 being involved with where there was something amiss  
5 with the present company?

6 A. I just have vague recollections of a couple  
7 of times that either a client would call or one of our  
8 people would call and say, you know, "Why is this AWP  
9 like this?" And I'm sort of making this up in  
10 terms -- I don't remember specifics, but I know there  
11 were some, but, you know, "Why does this AWP coming  
12 from Redbook appear to be different from --  
13 drastically different than what is coming from  
14 Medi-Span or First DataBank?" And then -- you know.  
15 And I know there were a couple of cases where I would  
16 get looking at that to see if there was somebody  
17 somewhere in that whole collaboration between  
18 manufacturer and compendia or even how we brought it  
19 into the CHIP system if there was something crazy  
20 about it.

21 Q. Do you -- do you recall whether there was an  
22 issue with Vancomycin's AWP listing in or about 1995?

23 A. In terms of accuracy? No, I don't recall  
24 that.

25 Q. Do you remember any issue with regard to

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1 Vancomycin pricing or AWP?

2 A. I do remember something in that time frame  
3 where -- and I wasn't directly involved. I just  
4 remember being I believe it was in, as I recall,  
5 Virginia Tobiason's office and it could have been in  
6 that time frame where there was -- there was  
7 discussion about whether Abbott's AWP, wherever that  
8 came from, you know. Put another way, I guess it  
9 would be Abbott's pricing for Vancomycin was too high  
10 as compared to some of the other generic products that  
11 were on the marketplace. And I do recall there were  
12 some discussion there.

13 Q. What discussions do you recall?

14 A. It's -- it's very removed and I really wasn't  
15 involved, but I think that the -- the issue was, you  
16 know, was that -- was that hurting Abbott Labs  
17 competitively on Abbott's price for Vancomycin as  
18 compared to generic competitors and how did that  
19 relate to the reimbursement that providers would  
20 receive when Vancomycin was billed.

21 Q. Do you remember what the resolution of that  
22 issue was?

23 A. I don't.

24 Q. Okay. Do you remember other than Virginia  
25 Tobiason, who may have been involved with that issue?

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1 A. I don't.

2 Q. Do you recall Dave Brincks being involved?

3 A. I don't.

4 Q. What about Gerald Eichhorn?

5 A. I don't recall that.

6 Q. Who is Mr. Brincks?

7 A. Well, he, at the time, was the manager of the  
8 contract marketing department for a good portion of  
9 the time that I was at Abbott Home Infusion Services.

10 Q. Did you work with him?

11 A. I did.

12 Q. Okay. How -- how did your two positions  
13 interface or interact? Why would you have occasion to  
14 work with him?

15 A. He or his department would -- you know, they  
16 would be responsible for putting together contracts  
17 between Abbott Home Infusion Services and its  
18 customers that then were to be implemented by the  
19 implementers in the case of reimbursement by the  
20 reimbursement staff. So it would be in terms of  
21 understanding the contract.

22 He also had some staff that -- you know,  
23 a number of the patients that were treated, rather  
24 than there being a master contract between Abbott or  
25 between its client and the health plan, there wasn't a

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1 master contract. So something called case management  
2 was done, which in this context was an individual  
3 patient case negotiation performed between the -- the  
4 provider and someone representing the health plan or  
5 at the health plan called a case manager, typically,  
6 where you would agree upon a price for providing the  
7 home infusion products and services on an individual  
8 patient case basis.

9 And in the contract marketing department  
10 there were some people that had the responsibility to  
11 be -- I think we called them the case manager, too,  
12 but they would be the people contracting -- contacting  
13 the health plan to arrive at that type of a  
14 negotiation. So that was part of the responsibility  
15 of contract marketing.

16 Q. Okay.

17 A. And -- and, you know, how would we relate to  
18 that? Well, you know, we as the reimbursement  
19 department had to make sure that the pricing was  
20 right. So if there would have been any type of  
21 questions, we would go and talk to them.

22 Q. Sir, if you could flip to Page 3297 in this  
23 same -- I believe it's in the same manual. It's down  
24 at the bottom. BR.

25 A. Sorry, I'm not finding it yet. 32 --

28 (Pages 106 to 109)

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<p style="text-align: right;">Page 110</p> <p>1 Q. 97. And I'm also going to ask you about 3298 2 and it's the same thing. 3 A. 3200. 4 Q. 32 -- yeah. 5 A. 3210. Sorry about all that. Sorry. Oh, 6 it's way back here. The matrix? 7 Q. Sir, do you recognize this document? I'm 8 going to ask you about this one and the one on the 9 next page and my primary focus is on the products, the 10 drug products Vancomycin and then acyclovir on the 11 next page. 12 A. Do I recognize it? It's in this book, so I 13 probably saw it at the time. 14 This would have been an indication of 15 the amount that would be paid for a billing for these 16 listed drugs by Medicare Part B for home infusion 17 therapy by what at the time were called regions. 18 There were four geographic sections of the country 19 called regions that you bill to depending on the 20 address of the patient. And so that's what this is. 21 It's indicating what the reimbursement would be by 22 Medicare. Or if there was a patient co-payor 23 deductible involved, it would be the summation of what 24 Medicare and the patient would pay for and it was 25 called a drug allowable.</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Because Medicare required it. 2 Q. Okay. So it was -- it was just a Medicare 3 requirement that if you were going to bill the 4 Medicare program for these types of products in an 5 infusion context, it would be done through the DMERC? 6 A. In a home infusion context. 7 Q. In a home infusion context. 8 A. Almost always there were -- there were a few 9 exceptions. 10 Q. And, sir, if we could just flip to the front 11 page of this manual, the actual title. 12 A. Okay. 13 Q. I believe this is the DMERC -- is this 14 Abbott's overview or -- 15 A. This is Abbott's prepared document. 16 Q. For DMERC -- 17 A. For billing -- 18 Q. -- claims? 19 A. For DMERC claiming, yes. 20 Q. Okay. If you could go to Page 3299. Take a 21 few minutes to review that. 22 A. (Witness reviewing document). 23 MS. FUMERTON: Do you have a -- what was 24 the number again? 25 MS. ST. PETER-GRIFFITH: 3299.</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Okay. Sir, if you could look under 2 Vancomycin. Region A it says 18.51. Does that mean 3 \$18.51? 4 A. It would mean that. 5 Q. Okay. And Region B it says \$7.80? 6 A. Yes. 7 Q. Region C, \$18.66? 8 A. Yes. 9 Q. And Region D, \$10.56? 10 A. Yes. 11 Q. Now, all of these regions are all under the 12 same Medicare program, right? 13 A. Yes. 14 Q. Okay. Do you know why there would be a -- 15 such a big difference between Regions B and D as 16 compared to Regions C and A? 17 A. I don't. 18 Q. Do you know where this information came from? 19 A. The government. Well, I'm sorry. From the 20 Medicare contractor called a DMERC at the time. 21 Q. Okay. And what is DMERC? 22 A. DMERC was durable medical equipment regional 23 carrier. 24 Q. Okay. Why were drugs billed under J codes? 25 Why would that fall under DMERC?</p>	<p style="text-align: right;">Page 113</p> <p>1 MS. FUMERTON: Thank you. 2 MS. ST. PETER-GRIFFITH: You can 3 understand why I didn't bring copies of all this for 4 you, Tara. 5 Q. (BY MS. ST. PETER-GRIFFITH) Sir, do you 6 recognize this document? 7 A. I do now, sure. 8 Q. Okay. What is it? 9 A. Do I recall it specifically back then? No. 10 Q. Okay. This is from Shellie Bronson -- 11 A. Yes. 12 Q. -- who you indicated was in training? 13 A. Yes. 14 Q. Do you understand what the -- what the text 15 of the -- and you are listed on the cc? 16 A. Yes. 17 Q. Do you have any doubt that you received this 18 cc, this document? 19 A. I assume I did. 20 Q. Okay. Well, would you have any reason to 21 doubt that you -- 22 A. I have no reason to doubt that I didn't. 23 Q. Okay. Sir, what -- what is this memo 24 describing? 25 A. It's describing that Region B, which is one</p>

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<p style="text-align: right;">Page 114</p> <p>1 of those four DMERCs, you know, Shellie had obtained  2 an update to the -- she's called it fee screening for  3 drugs, which I would interpret to be allowable. Is  4 that what the next page says? It looks like it. So  5 there was some change. She had obtained that somehow  6 and she was informing the department about it and  7 there were two drugs that are listed that she could  8 not find any information for.  9 Q. Including acyclovir?  10 A. Yes.  11 Q. And, sir, if you could look at the next two  12 pages then, 3300 and 3301. Does this appear to be the  13 updated information that she's referencing in the  14 memo?  15 A. I would draw that conclusion from the  16 placement of the pages and that's the best answer I  17 could give you.  18 Q. Okay. But this is another drug allowable  19 matrix?  20 A. This memo is dated October 14, 1994. This is  21 an update on 10/13/1994. So it's probably a good  22 assumption.  23 Q. Okay. Sir, under the -- on the drug  24 allowable matrix, do you see the title at the top?  25 Where you just read the date, updated "10/13/94."</p>	<p style="text-align: right;">Page 116</p> <p>1 reimbursement in Home Infusion Services for a long,  2 long time. She was in on the ground floor of the  3 business. She may have been there from the very start  4 of it. I'm not sure. And she was an expert in the  5 field.  6 Q. Okay. If Ms. Tobiason was unfamiliar with J  7 code billing on HCFA 1500 forms for drugs that were  8 provided to patients either by Abbott's pharmacies or  9 Abbott's reimbursement customers, would that surprise  10 you?  11 A. Unfamiliar meaning what exactly?  12 Q. Meaning she wasn't aware that any J codes  13 were billed on HCFA 1500 forms.  14 A. That would surprise me.  15 Q. Okay. Why would that surprise you?  16 A. For all the reasons I just said.  17 Q. Okay. Sir, if you could turn to page --  18 MS. ST. PETER-GRIFFITH: Oh, wait.  19 We've got a tape change. Why don't we take a break.  20 THE WITNESS: Okay.  21 MR. STETLER: Okay.  22 THE VIDEOGRAPHER: We are off the record  23 at 11:43 a.m. at the end of Tape Number 2.  24 (Recess from 11:43 to 11:54)  25 THE VIDEOGRAPHER: Please stand by. We</p>
<p style="text-align: right;">Page 115</p> <p>1 A. Yes.  2 Q. It says, "Median AWP."  3 A. Uh-huh.  4 Q. What does that mean?  5 A. That really doesn't relate to me and I  6 don't -- I can't answer that.  7 Q. Okay.  8 A. I don't know.  9 Q. Do you know who would know what that means?  10 A. This was a long time ago. Shellie Bronson  11 would probably know.  12 Q. Okay.  13 A. Virginia Tobiason would probably know.  14 Q. If Ms. Tobiason denied any knowledge of AWP,  15 would that surprise you?  16 A. Any knowledge of AWP.  17 Q. Yeah.  18 A. You mean like what it even meant?  19 Q. Yes.  20 A. Yeah, that would surprise me.  21 Q. If she testified that she learned about it  22 through the newspapers, would that surprise you?  23 A. Yeah, that would surprise me.  24 Q. Why would it surprise you?  25 A. Virginia had been the head of the</p>	<p style="text-align: right;">Page 117</p> <p>1 are back on the record at 11:54 a.m. with the  2 beginning of Tape Number 3.  3 Q. (BY MS. ST. PETER-GRIFFITH) Sir, one  4 question I neglected to ask you when we first talked  5 about this document. Do you know who drafted this  6 particular manual?  7 A. Most of these materials would have been put  8 together by Shellie Bronson, if not all of them.  9 Q. Okay. Do you know whether Virginia Tobiason  10 would have participated?  11 A. I would say probably not.  12 Q. Okay. Why?  13 A. Because Shellie had undertaken a position,  14 which was a new position, as the trainer for the  15 reimbursement department and that was her function was  16 to put together courses like this. If she had picked  17 up materials from prior to that time, it was before I  18 was there and I would have no knowledge of that, and,  19 therefore, have no knowledge of who would have created  20 those materials. Maybe there are some in here like  21 that.  22 Q. Okay. Sir, if you could turn to BR 03314.  23 A. Uh-huh.  24 MS. ST. PETER-GRIFFITH: It has some  25 notes on one page.</p>

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<p>1 MS. FUMERTON: Oh, I'm sorry.</p> <p>2 MS. ST. PETER-GRIFFITH: No. That's</p> <p>3 okay.</p> <p>4 MS. FUMERTON: Is that just the one</p> <p>5 document or is there more than one document there?</p> <p>6 MS. ST. PETER-GRIFFITH: No. It's</p> <p>7 one --</p> <p>8 MS. FUMERTON: Okay.</p> <p>9 MS. ST. PETER-GRIFFITH: Actually, I'm</p> <p>10 going to have him confirm that.</p> <p>11 MS. FUMERTON: Okay. That's what I was</p> <p>12 checking for.</p> <p>13 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you</p> <p>14 could look at -- just flip through 3314 through 3326,</p> <p>15 which is still part of this manual, but I want to talk</p> <p>16 with you about this document.</p> <p>17 A. Okay.</p> <p>18 Q. Sir, what is this document?</p> <p>19 A. These are instructions from one of the</p> <p>20 Medicare contractors on how to complete a 1500 form.</p> <p>21 This, actually, is not from a DMERC. This is from a</p> <p>22 Medicare contractor that was handling claims submitted</p> <p>23 for total parenteral nutrition or enteral nutrition at</p> <p>24 that time.</p> <p>25 Q. Okay. And how do you know that?</p>	<p>1 So that's what TPN is.</p> <p>2 Enteral nutrition is also tube feeding,</p> <p>3 but it is done -- it's using enteral formulas, which,</p> <p>4 actually, can also be drunk, fed orally. But in the</p> <p>5 context of businesses that many home infusion therapy</p> <p>6 providers are in, it's for patients that need tube</p> <p>7 feeding where the tube is placed into the digestive</p> <p>8 track for one of several routes and then the nutrient</p> <p>9 is fed to them in that way through gravity or I think</p> <p>10 it can be done through a pump feeder.</p> <p>11 Q. Did Abbott manufacture enteral products?</p> <p>12 A. Yes.</p> <p>13 Q. Did it manufacture parenteral products?</p> <p>14 A. I believe so is the best answer I can give</p> <p>15 you. It's not something I ever kept track of.</p> <p>16 Q. With regard to the enteral products, what</p> <p>17 division sold the enteral products?</p> <p>18 A. The Ross products division.</p> <p>19 Q. Did the home infusion component of the</p> <p>20 Hospital Business Sector also sell enteral products as</p> <p>21 part of its contracts with its customers?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So it would sell Ross products?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Would it seek reimbursement for Ross</p>
Page 119	Page 121
<p>1 A. It says October -- well, it says PEN Medicare</p> <p>2 Advisory and October 1993. From the combination of</p> <p>3 the date and what it says there, that's what I deduce.</p> <p>4 Q. Okay. Sir, have you seen this document</p> <p>5 before?</p> <p>6 A. Probably.</p> <p>7 Q. Do you know whether other Medicare</p> <p>8 contractors would -- or whether the Medicare program</p> <p>9 or HCFA itself would publish comparable guidelines for</p> <p>10 other -- for reimbursement for other products on HCFA</p> <p>11 1500 forms?</p> <p>12 A. They would.</p> <p>13 Q. Okay. Have you seen them?</p> <p>14 A. Over time, yes.</p> <p>15 Q. Sir, what is parenteral and enteral</p> <p>16 nutrition?</p> <p>17 A. Parenteral nutrition is -- or otherwise</p> <p>18 called total parenteral nutrition by much of the</p> <p>19 industry, or TPN, is provided to patients that need</p> <p>20 tube feeding directly into the vein. For some reason</p> <p>21 their -- their digestive track has malfunctioned to</p> <p>22 the extent that they either are able to absorb no</p> <p>23 nutrients or very few nutrients either on a permanent</p> <p>24 or sometimes a temporary basis, so they have to have</p> <p>25 tube feeding injected directly into the blood stream.</p>	<p>1 products that were distributed by Abbott's pharmacies</p> <p>2 from Medicare or Medicaid?</p> <p>3 A. Yes.</p> <p>4 Q. Would Abbott, when providing reimbursement</p> <p>5 services for some of its contract clients, bill</p> <p>6 Medicaid or Medicare for enteral Ross products?</p> <p>7 A. Yes.</p> <p>8 Q. What charge information would be used on the</p> <p>9 HCFA 1500 forms for the Ross products that were</p> <p>10 distributed by the Abbott home pharmacies?</p> <p>11 A. It would be really very similar to what I had</p> <p>12 explained earlier about the -- that a list price, a</p> <p>13 list charge, would be set and that's what would be</p> <p>14 used. Very similar to the drugs. I mean,</p> <p>15 conceptually, at least.</p> <p>16 Q. What about for the customers for whom Abbott</p> <p>17 sold -- or Abbott provided reimbursement services,</p> <p>18 what would the charge be on the HCFA 1500 form</p> <p>19 submitted to Medicare or some Medicaid programs for</p> <p>20 the Ross enteral products?</p> <p>21 A. It would be done --</p> <p>22 MS. FUMERTON: Objection, form.</p> <p>23 A. It would be done at the list price as</p> <p>24 established by that customer and which -- and they may</p> <p>25 have been totally responsible for it or they may have</p>

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<p style="text-align: right;">Page 122</p> <p>1 worked with Abbott Home Infusion Services on a -- sort  2 of a consulting contractual arrangement to determine  3 that. Ultimately the -- in all -- my understanding  4 was, in all of those relationships, that the customer  5 ultimately was responsible for the pricing. That's  6 the way I understood that.  7 Q. (BY MS. ST. PETER-GRIFFITH) Unless it was  8 Abbott's pharmacy.  9 A. Unless it was Abbott's pharmacy.  10 Q. And then Abbott would be responsible for  11 setting the list price charge.  12 A. Where it was billed in Abbott's name, yes.  13 Q. Sir, this particular document, 3314 through  14 3326, is contained in the DMERC manual.  15 A. Yes.  16 Q. Would Abbott's reimbursement department, Home  17 Infusion reimbursement department, refer to the  18 guidelines published by either HCFA or HCFA  19 contractors as part of the normal routine in  20 completing and submitting billing to Medicare and  21 Medicaid?  22 A. I would say generally not.  23 Q. Why not?  24 A. Because it was -- a lot of it was really done  25 by the computer system automatically given the data</p>	<p style="text-align: right;">Page 124</p> <p>1 is -- really, are you giving to the payer what the  2 payer says you are supposed to give to them. And  3 Abbott would take a look at this, these types of  4 instructions, and, you know, combination between  5 the -- someone in reimbursement and someone in the  6 computer system department to program the computer to  7 appropriately complete what the computer could  8 automate.  9 And, you know, there -- there -- when I  10 came into the department, I mean, the business had  11 been underway for about ten years at that time. The  12 person that was primarily responsible for being  13 knowledgeable about and, therefore, directing,  14 managing, if you will, so that things were done  15 according to all those regulations was Virginia  16 Tobiason.  17 Q. Okay. Do you have any idea whether the  18 charges section was -- was accurately completed on  19 these HCFA 1500 forms submitted either for Abbott  20 reimbursement or reimbursement customers?  21 A. What do you mean by accurately?  22 Q. Meaning was it in compliance with state and  23 federal Medicare and Medicaid law --  24 MS. FUMERTON: Objection.  25 Q. (BY MS. ST. PETER-GRIFFITH) -- and</p>
<p style="text-align: right;">Page 123</p> <p>1 that was put into it and they would be -- they would  2 be trained on -- you know, where the computer system  3 didn't do it automatically, they would be trained  4 through sessions such as this or through, perhaps,  5 getting instructions from someone else in the  6 department if they needed some help on how to do it.  7 And this is pretty detailed stuff and I would say no.  8 Q. How would the Abbott reimbursement department  9 know whether it was complying with HCFA guidelines or  10 CMS guidelines or statutes or regulations governing  11 reimbursement?  12 MS. FUMERTON: Objection, form.  13 A. Well, you know, that's a broad question.  14 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  15 A. I mean, in terms of -- I mean, we are  16 focusing on how you complete a 1500 form --  17 Q. Right.  18 A. -- here.  19 Q. Let me clarify. In the context of completing  20 a 1500 form, how would Abbott know that what its  21 computer system was doing and what its personnel was  22 doing was in compliance with federal and state law  23 concerning the Medicare and Medicaid program?  24 MS. FUMERTON: Objection, form.  25 A. You know, I guess completing a 1500 form</p>	<p style="text-align: right;">Page 125</p> <p>1 regulations?  2 A. I understood --  3 MS. FUMERTON: Objection, form.  4 A. I understood that it was. Can you -- you  5 know, if you want me to give you some specifics or  6 cite here and there, no, I have no knowledge of that.  7 Q. Okay. How do you know it was?  8 A. Because -- well, partly because, you know,  9 the form the was completed in various fields. But  10 when it comes to the pricing, because, you know, it's  11 always been my understanding from walking in in that  12 position and just, I guess, listening and being told  13 that -- that when you bill to Medicare or Medicaid,  14 you bill at the provider's list price.  15 Q. Okay. Who told you that?  16 A. I can't recall.  17 Q. Was that a system that was in place before  18 you arrived?  19 A. Oh, yeah.  20 Q. So if it was not in compliance with state or  21 federal law, you would have no reason to know whether  22 it was or not?  23 MS. FUMERTON: Objection, form.  24 A. Certainly at that time. It's not that I'm  25 that much more knowledgeable now in this aspect, but I</p>

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<p style="text-align: right;">Page 126</p> <p>1 think that's the way it's done now by providers in 2 healthcare. 3 Q. (BY MS. ST. PETER-GRIFFITH) In the 4 reimbursement department, at any time when you were 5 affiliated with Abbott Home Infusion, was there ever 6 any concern that Abbott's submission of claim forms, 7 either on behalf of its pharmacies or on behalf of its 8 reimbursement clientele, was in contravention to the 9 False Claims Act? 10 A. No. 11 MS. FUMERTON: Objection, form. 12 Q. (BY MS. ST. PETER-GRIFFITH) Are you familiar 13 with the False Claims Act? 14 A. Not intimately, no. 15 Q. What do you know about the False Claims Act? 16 A. What I read in the newspapers. 17 Q. Which newspapers? 18 A. I couldn't cite any specific ones. 19 Q. That article that you provided as part of 20 your production? 21 A. Maybe. I don't recall. 22 MS. ST. PETER-GRIFFITH: Okay. Sir, I'd 23 like to -- we can mark this as the next exhibit even 24 though it is one of the pages that you produced. I 25 think it's just easier for me to give him this than --</p>	<p style="text-align: right;">Page 128</p> <p>1 (Exhibit 1316 marked) 2 MS. FUMERTON: We are marking this one 3 separately as an exhibit? 4 MS. ST. PETER-GRIFFITH: Yeah. Just so 5 that, frankly, Dave doesn't have to go dig through the 6 box. 7 MR. STETLER: Which I'm all for. 8 MS. FUMERTON: All right. So what 9 exhibit number is this? 10 MS. ST. PETER-GRIFFITH: This is 1316. 11 MS. FUMERTON: Thanks. 12 MS. ST. PETER-GRIFFITH: And it's -- 13 Q. (BY MS. ST. PETER-GRIFFITH) What's the 14 number, sir, at the bottom? 15 A. 2422. 16 Q. Sir, have you looked at the document? 17 A. Yes, uh-huh. 18 Q. Okay. Sir, at the top of this document it 19 says "Home Infusion Services." Do you see that? 20 A. Yes. 21 Q. Is that the logo for the division of Home 22 Infusion that you worked with at Abbott? 23 A. It was a business unit, and yes. 24 Q. Okay. And it says "Interoffice 25 Correspondence"?</p>
<p style="text-align: right;">Page 127</p> <p>1 rather than have you, Dave, dig through the box. 2 MR. STETLER: Oh, good. Yes, I agree. 3 MS. ST. PETER-GRIFFITH: And I will 4 submit -- I'm looking at BR 02422. And I will provide 5 it to counsel. It appears to be a comparable document 6 to 2430. 7 MS. MOORE: What exhibit number is this 8 now? 9 MS. ST. PETER-GRIFFITH: This is going 10 to be 1315 or 16. 1316. 11 MR. STETLER: Do you want both of them 12 back? 13 MS. ST. PETER-GRIFFITH: If you could 14 give -- yeah. We are going to mark this one. 15 MR. STETLER: Oh, I'm sorry. 16 MS. ST. PETER-GRIFFITH: I'm just using 17 this for me as my -- 18 MR. STETLER: I get it. 19 MS. ST. PETER-GRIFFITH: -- copy when 20 I -- 21 A. (Witness reviewing document). Okay. 22 Q. (BY MS. ST. PETER-GRIFFITH) Did she mark 23 that? Did she put the -- can we ask her to put the 24 sticker on so that we don't forget to do that at a 25 later point in time?</p>	<p style="text-align: right;">Page 129</p> <p>1 A. Yes. 2 Q. At the top it says, "From Lynn Leone." Do 3 you see that? 4 A. Yes. 5 Q. Who is Ms. Leone? 6 A. She was in the contract marketing department 7 of the business unit. 8 Q. Okay. And it says at the top, "To: All 9 Reimbursement Personnel" and to "All Pharmacists 10 Personnel." Do you see that? 11 A. Yes. 12 Q. Do you know -- were you included among the 13 reimbursement personnel? 14 A. I have no recollection of that, but I was in 15 reimbursement. 16 Q. Okay. In fact, you were one of two managers, 17 weren't you? 18 A. One of two supervisors. 19 Q. Supervisors, I'm sorry. If a memo went to 20 all reimbursement personnel in June of 1996, would you 21 have expected that it would have gone to you? 22 A. Yes. 23 Q. Do you recognize this document? 24 A. Do I recall it? No. Does it look like 25 something that I have an understanding of now?</p>

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<p style="text-align: right;">Page 130</p> <p>1 Q. Okay.</p> <p>2 A. Yeah.</p> <p>3 Q. When you say you have an understanding of</p> <p>4 now, what do you mean?</p> <p>5 A. I mean, I'm reading it now and if you ask me</p> <p>6 some questions, I may be able to answer them.</p> <p>7 Q. Okay. First I want to ask you, on the re</p> <p>8 line it says "Lupron." Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. What is Lupron?</p> <p>11 A. That was a drug provided by TAP</p> <p>12 Pharmaceuticals.</p> <p>13 Q. Was it also distributed --</p> <p>14 A. It is provided by.</p> <p>15 Q. Was it distributed as part of the contracts</p> <p>16 that the Home Infusion Services division had with its</p> <p>17 clients?</p> <p>18 A. My memory on this is that there were some</p> <p>19 patients being serviced by Abbott that were Lupron</p> <p>20 patients. I don't think it was a lot. And I don't</p> <p>21 think I knew much about it at the time, but, yes.</p> <p>22 Q. Okay. Sir, does this issue -- do you</p> <p>23 remember there being an issue in June of 1996</p> <p>24 concerning increasing the AWP of Lupron and that</p> <p>25 necessitating an increase in list price?</p>	<p style="text-align: right;">Page 132</p> <p>1 that would have been the Chicago one, so, therefore,</p> <p>2 yes, they must have distributed Lupron.</p> <p>3 Q. Sir, under the contractual arrangements</p> <p>4 whereby Abbott provided consigned goods was to some of</p> <p>5 its Home Infusion customers.</p> <p>6 A. Yes.</p> <p>7 Q. Do you remember that?</p> <p>8 A. Yes.</p> <p>9 Q. Would it provide Lupron on a consignment</p> <p>10 basis?</p> <p>11 A. I wouldn't know that specifically.</p> <p>12 Q. What about the Ross products, do you know</p> <p>13 whether they provided the Ross enteral products on a</p> <p>14 consignment basis?</p> <p>15 A. I would not know that specifically.</p> <p>16 Q. Okay.</p> <p>17 A. Okay.</p> <p>18 Q. Do you remember -- do you remember any --</p> <p>19 A. The best I can say, yeah.</p> <p>20 Q. Okay. That's fine.</p> <p>21 A. Okay.</p> <p>22 Q. Do you remember any litigation arising</p> <p>23 against TAP concerning its pricing of Lupron?</p> <p>24 A. The only litigation that I recall is -- had</p> <p>25 to do with -- I think, as I recall, it had to do with</p>
<p style="text-align: right;">Page 131</p> <p>1 A. I don't. I do not remember that.</p> <p>2 Q. Okay. Do you remember anything with regard</p> <p>3 to pricing of Lupron that affected the reimbursement</p> <p>4 department?</p> <p>5 A. No.</p> <p>6 Q. Do you remember anything concerning the drug</p> <p>7 Lupron at all during your tenure in the Home Infusion</p> <p>8 business unit?</p> <p>9 MS. FUMERTON: Objection, form.</p> <p>10 A. I'm thinking.</p> <p>11 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>12 A. Sorry.</p> <p>13 MR. STETLER: We noticed the smoke</p> <p>14 coming out of your ears.</p> <p>15 A. I think -- I think, to the best of my</p> <p>16 recollection, when we were closing the business unit</p> <p>17 there were issues for the patients that the Abbott</p> <p>18 pharmacy in Chicago was still treating, providing the</p> <p>19 Lupron to, and finding another way for them to be</p> <p>20 provided with the drug therapy. That's -- that's what</p> <p>21 I recall.</p> <p>22 Q. (BY MS. ST. PETER-GRIFFITH) Would Abbott</p> <p>23 pharmacies, the Abbott-owned pharmacies, would it</p> <p>24 distribute Lupron to patients?</p> <p>25 A. The Abbott-owned pharmacy that I recall in</p>	<p style="text-align: right;">Page 133</p> <p>1 representations that allegedly TAP was making to</p> <p>2 physician offices for the Lupron and I know that --</p> <p>3 from that that there were some TAP employees, I think</p> <p>4 mostly on the sales side, that had been involved in</p> <p>5 that. And that's about what I recall.</p> <p>6 Q. Anything else?</p> <p>7 A. No, that's it.</p> <p>8 Q. Do you remember any litigation involving Ross</p> <p>9 products?</p> <p>10 A. I recall there was a situation in Southern</p> <p>11 Illinois that had to do with representations allegedly</p> <p>12 by Ross, I guess, to certain providers of enteral</p> <p>13 products. And I think I recall that it had to do with</p> <p>14 representations of how to bill the government for them</p> <p>15 and that ultimately, I think, there was a settlement</p> <p>16 between Abbott or Ross, if you will, or even some</p> <p>17 obscure subsidiary that I never heard of before, and</p> <p>18 the government on that case.</p> <p>19 Q. How did you know that?</p> <p>20 A. Both of those from newspapers.</p> <p>21 Q. Okay. Was there any discussion about that at</p> <p>22 all at Abbott?</p> <p>23 A. Not that I can recall.</p> <p>24 Q. Do you recall a letter from Miles White</p> <p>25 concerning the Ross investigation that he sent out to</p>

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<p style="text-align: right;">Page 134</p> <p>1 all employees?</p> <p>2 A. I don't.</p> <p>3 Q. Do you remember any correspondence from Miles</p> <p>4 White?</p> <p>5 A. No, not on that.</p> <p>6 Q. Who? What correspondence from Miles White do</p> <p>7 you recall?</p> <p>8 A. I still get them now as an Abbott retiree.</p> <p>9 Q. Okay. Other than in the personnel context,</p> <p>10 do you remember any correspondence from Miles White?</p> <p>11 A. Not specifically, no.</p> <p>12 Q. Do you remember any repercussions at all</p> <p>13 within the Hospital Products Division concerning</p> <p>14 either the TAP litigation or the Ross litigation?</p> <p>15 A. I do not.</p> <p>16 MS. ST. PETER-GRIFFITH: Counsel, I</p> <p>17 would just point out -- counsel for Abbott, I would</p> <p>18 just point out that this is a document concerning</p> <p>19 Lupron within the Home Infusion. It is, as are nearly</p> <p>20 all of the documents that Mr. Rodman has provided</p> <p>21 responsive to request for production from the United</p> <p>22 States, has never been produced to us and I just want</p> <p>23 to state that on the record that we are seeing these</p> <p>24 documents for the first time through Mr. Rodman's</p> <p>25 production and not through Abbott's production. I</p>	<p style="text-align: right;">Page 136</p> <p>1 some of these have been produced, but I don't think</p> <p>2 it's a correct representation to say that none of them</p> <p>3 have not been produced in this case.</p> <p>4 MS. ST. PETER-GRIFFITH: Nearly all --</p> <p>5 nearly all of them we've never seen before other</p> <p>6 than --</p> <p>7 MS. FUMERTON: Well, the record will</p> <p>8 show -- I mean, a review of the documents can show</p> <p>9 that. I just have no personal knowledge of that.</p> <p>10 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Sir, if</p> <p>11 you could look at the same book, 03328 through - I'm</p> <p>12 trying to find the end of it here - 3429.</p> <p>13 MS. FUMERTON: What were the first --</p> <p>14 oh.</p> <p>15 MR. STETLER: It apparently goes through</p> <p>16 that tab.</p> <p>17 THE WITNESS: Wrong.</p> <p>18 MR. STETLER: Never mind.</p> <p>19 MS. FUMERTON: Do you have writing in</p> <p>20 here? I don't want to flip through --</p> <p>21 MS. ST. PETER-GRIFFITH: No.</p> <p>22 A. Okay. About three quarters of an inch.</p> <p>23 Q. (BY MS. ST. PETER-GRIFFITH) Sir, what is</p> <p>24 this document?</p> <p>25 A. Well, the first page is a copy from</p>
<p style="text-align: right;">Page 135</p> <p>1 understand that, Ms. Fumerton, you're probably not</p> <p>2 responsible for the document production side of</p> <p>3 Abbott's litigation, but I just wanted to point that</p> <p>4 out on the record.</p> <p>5 MS. FUMERTON: Okay. I will just say, I</p> <p>6 think that, just to clarify, all these documents don't</p> <p>7 refer to Lupron as I think was mentioned before, at</p> <p>8 least. You're saying that some of these documents --</p> <p>9 MS. ST. PETER-GRIFFITH: Some of these</p> <p>10 documents --</p> <p>11 MS. FUMERTON: -- you've never seen</p> <p>12 before. And I would note, though, for the record, I</p> <p>13 think one of the documents you've already shown</p> <p>14 Mr. Rodman was admitted as an exhibit to a previous</p> <p>15 deposition, so that clearly had to have been produced</p> <p>16 previously.</p> <p>17 MS. ST. PETER-GRIFFITH: Okay.</p> <p>18 One page. Yes. Most of the --</p> <p>19 MS. MOORE: But that one document,</p> <p>20 Exhibit 1114, was not produced by Mr. Rodman. I</p> <p>21 mean --</p> <p>22 MS. FUMERTON: Well, no. Correct.</p> <p>23 Obviously Mr. Rodman is not a current employee of</p> <p>24 Abbott, so these are the documents that Mr. Rodman</p> <p>25 had, but that's -- and I don't know to what extent</p>	<p style="text-align: right;">Page 137</p> <p>1 St. Anthony's Publishing of 1994 HCPCS, Level II</p> <p>2 codes. And that goes up to the next tab. So it's</p> <p>3 really documents 3330 through 3408, it would appear.</p> <p>4 Q. Okay.</p> <p>5 A. Just that.</p> <p>6 Q. Thank you, sir. What is that document, 3328</p> <p>7 through 3408?</p> <p>8 A. Well, it's a 1994 -- it's a copy of a 1994</p> <p>9 HCPCS Level II Codes document as published by</p> <p>10 St. Anthony's Publishing.</p> <p>11 Q. And what -- what is this document?</p> <p>12 A. It would appear that's what it is.</p> <p>13 Q. Okay. Are you familiar with it?</p> <p>14 A. Specifically, no. Generally, sure.</p> <p>15 Q. Okay. Generally what are you aware of?</p> <p>16 A. Generally considerable amounts of billing for</p> <p>17 home infusion services are done coding claims with</p> <p>18 HCPCS codes and this is a reference -- a copy of a</p> <p>19 reference publication, it would appear, for HCPCS</p> <p>20 codes that were in use in 1994.</p> <p>21 Q. And would this be of use to members of the</p> <p>22 reimbursement department in the Home Infusion business</p> <p>23 unit?</p> <p>24 A. Yes. Yes.</p> <p>25 Q. How is it of assistance to them?</p>

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1 A. Well, it -- for the average biller, they  
2 would seldom look at this. We would typically have a  
3 copy, or maybe two copies, resident and the  
4 department, and -- but if -- generally the computer  
5 system would have loaded into it HCPCS codes to  
6 identify products that would ultimately, by the  
7 computer system, be translated into a claim. And  
8 people that might be loading the data into the system  
9 may be using this book fairly carefully to make sure  
10 that that's right. The billers typically wouldn't be  
11 going to this code system. The supervisors, like me  
12 at the time, might because we didn't understand  
13 something and we wanted to verify what was on the  
14 claim in looking at it.

15 Q. Okay. Would you use this document or  
16 versions of this document?

17 A. At that time? On rare occasions, yeah.

18 Q. Would St. Anthony's publish one each year?

19 A. I'm sorry?

20 Q. Would St. Anthony's publication publish one  
21 each year?

22 A. Yes, I believe so.

23 Q. Would this information be contained within  
24 the CHIP system?

25 A. The coding information -- some of these codes

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1 would be used in the CHIP system.

2 Q. Okay. But would the actual -- would the  
3 information contained in this particular publication  
4 be available in the CHIP system?

5 A. The codes would.

6 Q. The codes would?

7 A. Some of the codes.

8 Q. Who would enter codes into the CHIP system?

9 A. That generally, I recall, would be done by  
10 the contract marketing department for the maintenance  
11 of it, I recall. We were talking about -- earlier  
12 this morning about special projects. I mean, I do,  
13 now that we bring this up, recall having involved --  
14 at one point we were trying to increase the -- I don't  
15 know, I guess I would say the accuracy of codes,  
16 something like that, that were in the CHIP system tied  
17 to the item files.

18 Q. Okay. And -- and who -- can you describe a  
19 little bit more what that project was that you were  
20 involved with?

21 A. No, I don't think so, I can't. I'm sorry.

22 Q. Do you remember who oversaw the project?

23 A. No, not really.

24 Q. Well, was it -- was it something that was --  
25 that was overseen and conducted within the

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1 reimbursement department or was it overseen and  
2 conducted within the contract marketing department at  
3 Home Infusion or was there an amalgam of personnel  
4 from both?

5 A. You know, I'm sorry, my memory is too hazy.

6 Q. Okay.

7 A. I just can't answer that.

8 Q. Do you know why the project was undertaken?

9 A. My memory is very hazy, I'm sorry.

10 MS. ST. PETER-GRIFFITH: Okay. What  
11 time do we have?

12 MS. FUMERTON: 11:20-ish.

13 MR. FOOTE: 12:00.

14 MS. FUMERTON: 12:20-ish.

15 MR. FOOTE: 12:25.

16 MR. STETLER: Never ask her again.

17 MS. FUMERTON: Apparently not. I don't  
18 have numbers on my watch, that's the problem.

19 Q. (BY MS. ST. PETER-GRIFFITH) Sir, I think  
20 that the next set of documents that I would like for  
21 Mr. Stetler to get for you to look at are BR --

22 MR. STETLER: And lunch.

23 Q. (BY MS. ST. PETER-GRIFFITH) -- 02159 --

24 A. So these aren't in here?

25 Q. -- through 02287. No, they are not.

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1 A. Oh, okay.

2 MR. STETLER: 021 --

3 MS. ST. PETER-GRIFFITH: 51 through  
4 0287.

5 Tara, if you want to flip through. My  
6 notes don't say anything --

7 MS. FUMERTON: Okay.

8 MS. ST. PETER-GRIFFITH: -- you know --

9 MS. FUMERTON: I understand.

10 MS. ST. PETER-GRIFFITH:  
11 -- incriminating, sticking my tongue out at Abbott or  
12 anything.

13 THE WITNESS: Does that go on the  
14 official transcript?

15 THE REPORTER: (Nodded head  
16 affirmatively).

17 MS. ST. PETER-GRIFFITH: We are not off  
18 the record?

19 MR. STETLER: Item filed data element?  
20 (Discussion off the record)

21 MR. STETLER: Okay. It looks like it's  
22 actually two documents.

23 MS. ST. PETER-GRIFFITH: Okay.

24 MR. STETLER: Well, at least it's in two  
25 parts.

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<p style="text-align: right;">Page 142</p> <p>1 MS. ST. PETER-GRIFFITH: Okay. Well,</p> <p>2 that --</p> <p>3 MR. STETLER: It's two things.</p> <p>4 MS. ST. PETER-GRIFFITH: It's tough for</p> <p>5 me to tell from the copies.</p> <p>6 MR. STETLER: Right. Exactly.</p> <p>7 MS. ST. PETER-GRIFFITH: Which is part</p> <p>8 of the reason why I wanted to work with the</p> <p>9 originals --</p> <p>10 MR. STETLER: No, that's fine.</p> <p>11 MS. ST. PETER-GRIFFITH: -- so that we</p> <p>12 could --</p> <p>13 MR. STETLER: Are we done with this guy?</p> <p>14 MS. ST. PETER-GRIFFITH: Yes.</p> <p>15 A. (Witness reviewing document). Okay. I'm</p> <p>16 fine.</p> <p>17 Q. (BY MS. ST. PETER-GRIFFITH) Sir, that first</p> <p>18 document that you have in front of you, can you</p> <p>19 identify the -- the Bates numbers on the pages?</p> <p>20 A. First page is BR 002151 and it goes</p> <p>21 through -- apparently in sequence through BR 02186.</p> <p>22 Q. Sir, do you know what this document is?</p> <p>23 A. It is a listing of data elements -- well, the</p> <p>24 beginning, at least, is a listing of data elements</p> <p>25 in -- or at least a partial listing of data elements</p>	<p style="text-align: right;">Page 144</p> <p>1 Home Infusion reimbursement department?</p> <p>2 A. I don't recall if I used this when I was --</p> <p>3 as a reimbursement supervisor. I definitely would</p> <p>4 have used this later on, at least portions of it, when</p> <p>5 I was the product manager, manager of client services.</p> <p>6 Q. So you're -- so you're familiar with the</p> <p>7 concepts raised in this document?</p> <p>8 A. Some of them. We'd have to -- you'd have to</p> <p>9 ask me specifics.</p> <p>10 Q. We'll get into specifics.</p> <p>11 A. Okay.</p> <p>12 Q. But I just -- in general are you familiar</p> <p>13 with the concepts?</p> <p>14 A. In general I would say I am.</p> <p>15 Q. And you would use this information in the</p> <p>16 context of your advising clients concerning the CHIP</p> <p>17 system; is that fair?</p> <p>18 A. Do I have specific recollection of that? No.</p> <p>19 Would I have been involved in that? Probably.</p> <p>20 Q. Were you involved in the creation of this</p> <p>21 document? And I would just point your attention at</p> <p>22 the bottom beginning on the second page it says,</p> <p>23 "Draft document," and then there's a date 10/12/99.</p> <p>24 A. Yeah. You know, I'm sorry, I may have been</p> <p>25 involved in portions of it, I may not have been. It's</p>
<p style="text-align: right;">Page 143</p> <p>1 in an item file that would have been part of the CHIP</p> <p>2 system. There's some sort of item file procedure here</p> <p>3 which -- which was written by somebody about, I guess,</p> <p>4 how to load data in it. Something about standard</p> <p>5 naming conventions. And then there are some examples</p> <p>6 of screens.</p> <p>7 Well, there's a letter here from David</p> <p>8 Brincks that has to do with the subject, I guess, of</p> <p>9 maintaining the item file. And there are some</p> <p>10 examples of screen prints from the CHIP system of some</p> <p>11 of the data in an item file that could have been real</p> <p>12 or could have been made up. I'm not sure.</p> <p>13 And so in its totality it is some of the</p> <p>14 information that was used by the internal staff at</p> <p>15 Abbott. And by "internal" we probably have to look at</p> <p>16 this more, but basically by the Abbott internal staff</p> <p>17 for maintaining the item file on CHIP. Or item files</p> <p>18 is a better way to say it.</p> <p>19 Q. Obviously you've seen this document before</p> <p>20 since it was one of the documents that you maintained</p> <p>21 and took with you when you left Abbott; is that</p> <p>22 accurate?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Sir, did you use this document</p> <p>25 yourself in the context of your employment with the</p>	<p style="text-align: right;">Page 145</p> <p>1 been too long ago.</p> <p>2 Q. Do you know --</p> <p>3 A. That's the best I can say.</p> <p>4 Q. Do you know which portions you may have been</p> <p>5 involved with?</p> <p>6 A. Well, I'm remembering something about track</p> <p>7 infusion here and I'm wondering if I might have</p> <p>8 written that.</p> <p>9 Q. Might have written which?</p> <p>10 A. Track infusion. But it's really too long</p> <p>11 ago.</p> <p>12 Q. Okay. Sir, what was this document used for?</p> <p>13 A. You know, it's difficult for me to answer</p> <p>14 that. Do I have specific recollections? Not really,</p> <p>15 you know. So I'm giving you educated speculation if I</p> <p>16 do it. Whether I should do that or not --</p> <p>17 Q. Well, I don't want you to speculate. I want</p> <p>18 your recollection. If you don't recall, then you</p> <p>19 don't recall.</p> <p>20 A. I really don't have specific recollections.</p> <p>21 Q. Okay. Sir, on the first page, see where it</p> <p>22 says NDC number?</p> <p>23 A. Yes.</p> <p>24 Q. And there's -- there are three sentences</p> <p>25 there.</p>

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1 A. Uh-huh.  
 2 Q. "Required for all drugs. The NDC number is  
 3 used to pull AWP from the Redbook."  
 4 A. Yes.  
 5 Q. "Many payers require this information when  
 6 submitting claims." Do you see that?  
 7 A. Yes.  
 8 Q. Which payers are being referenced there?  
 9 A. Well, looking at it now, I'm not sure that's  
 10 really worded as best as it -- as well as it should.  
 11 Q. Okay.  
 12 A. As I had explained earlier, there were --  
 13 there are -- there were and still are two predominant  
 14 methods of how you bill. You bill -- you submit a  
 15 claim at list price or you submit a claim at a  
 16 contractual discounted price, presumably discounted.  
 17 And for the drug portion of your claims,  
 18 AWP was important for either understanding what to  
 19 submit or understanding the difference between your  
 20 list price and what you expected to get. And that's  
 21 how AWP was used in the CHIP system, for those two  
 22 purposes that I explained.  
 23 So looking at it now, this probably  
 24 would be better said that this field is important for  
 25 the reimbursement claiming process with many payers.

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1 Q. Including Medicaid and Medicare?  
 2 A. Yes.  
 3 Q. How is it important?  
 4 A. For Medicare and for Medicaid and for many  
 5 other payers at the time the reimbursement was -- for  
 6 drugs was going to be some sort of AWP-based formula  
 7 and that's how it was important.  
 8 Q. And which payers required an AWP-based  
 9 formula?  
 10 A. Which required you to submit your claims with  
 11 an AWP-based price on them, is that your question?  
 12 Q. Yes.  
 13 A. Not Medicare, not Medicaid, to the best of my  
 14 knowledge on Medicaid. Again, there were 50 states.  
 15 And there would be some commercial health plans that  
 16 there would be contracts with that required the  
 17 provider to submit a claim with the -- the contracted  
 18 agreed-upon price.  
 19 I had explained earlier that there were  
 20 cases where there would be individual case management  
 21 price agreements for a patient. And, again, there  
 22 would be some payers that would require you to submit  
 23 those claims with that agreed-upon price. And in the  
 24 case of drugs, that agreed-upon price would typically  
 25 be based upon some sort of AWP reimbursement.

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1 Q. Okay. Why would it be important to pull AWP  
 2 from the Redbook for purposes -- for reimbursement  
 3 purposes?  
 4 A. As I had explained earlier, the Redbook was  
 5 the compendium source for the AWP data that was  
 6 integrated into the CHIP system and used for these  
 7 purpose of reimbursement.  
 8 Q. The next item down says, "Unit of measure."  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. What does that mean?  
 12 A. Well, for all products, drugs and others, in  
 13 the computer system, in order to have it in your  
 14 inventory, your item file, you had to have some sort  
 15 of unit of measure. If it was a pump, that unit of  
 16 measure would be each, one pump. If it was a drug,  
 17 drugs are more complicated than that. And so if it  
 18 was a solution, a unit of measure might be -- you see  
 19 mL here. So it might be milliliters. So you might  
 20 have a drug that was in a solution form in a 250-mil  
 21 bag. If the drug was a powder, then the -- it would  
 22 be a weight measure and you see MG and gram, that sort  
 23 of thing.  
 24 Q. The next item down says, "Current Contract  
 25 Cost." Do you see that?

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1 A. Yes.  
 2 Q. And was that a reimbursement-related field  
 3 within the CHIP system?  
 4 A. Not really. The reimbursement department, at  
 5 least at levels of my operations, you know -- frankly,  
 6 we weren't concerned with cost in any particular way.  
 7 We didn't pay much attention to it. This field, from  
 8 the description of it, was a potential reporting field  
 9 that could be used by others, but it was beyond -- it  
 10 was out of my league.  
 11 Q. Who would it be used by?  
 12 A. The -- it would, I think, be used for --  
 13 well, it could be -- if it was a client relationship,  
 14 it could be used -- let me read it again.  
 15 Q. Sure.  
 16 A. Sorry.  
 17 Q. Take your time.  
 18 A. (Witness reviewing document). Okay. The  
 19 purchase price ... You know, I guess it could be used  
 20 for management reporting for those that were  
 21 responsible with profit and loss of these businesses.  
 22 If it was an Abbott only portion, then it would be  
 23 used by those in Abbott's Home Infusion management  
 24 that were responsible for that. If it was a client,  
 25 it would be used by them.

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1 Q. Do you know why it's included as a  
2 reimbursement-related field, item file data element?  
3 A. Someone decided to put it there.  
4 Q. Is it fair to say that contract cost was not  
5 something that the reimbursement department of Home  
6 Infusion concerned itself with?  
7 A. Yes.  
8 Q. "Current Factory Cost," what does that mean?  
9 A. (Witness reviewing document). The -- the --  
10 the CHIP system was originally developed before I  
11 came. I don't understand all aspects of the specs at  
12 that time.  
13 On surface this would appear to be a  
14 reference to -- for an Abbott product, a cost that  
15 Abbott had assigned through the accountants, I guess,  
16 for the cost of the product coming from the product  
17 providing side of Abbott into the Home Infusion  
18 business unit.  
19 I don't know that clients would have  
20 ever used this field for their businesses. If they  
21 did, you know, there were ways -- I mean, you could  
22 use fields for other purposes in the CHIP system and  
23 maybe generate a management report that satisfied your  
24 needs as a manager responsible for P&L. They might  
25 have used it in that way.

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1 But I think that's the history of this  
2 field. It's not something I was involved in.  
3 Q. Okay. Would it have been -- would the  
4 current factory costs have been anything that  
5 concerned the reimbursement department of Home  
6 Infusion?  
7 A. Well, there's a reference in here, something  
8 about a price schedule being -- what did I just read  
9 that? "Field referenced when a price schedule is  
10 developed to price an item at acquisition cost." So  
11 if you read that you would say that, oh, there must  
12 have been some potential for price agreements from the  
13 payer to the provider based upon acquisition cost. I  
14 don't think that was done very much. I don't have a  
15 lot of recollection of that.  
16 Q. Would that ever have been done in a Medicare  
17 or Medicaid reimbursement context?  
18 A. No.  
19 Q. Do you see then "Price" below that?  
20 A. I mean, I don't think so anyway. I'm sorry?  
21 Q. Down at the bottom. The very last item says  
22 "Price." Do you see that?  
23 A. Yes.  
24 Q. And it says, "Displays ... list price when  
25 entered in screen two." Do you see that?

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1 A. Yes.  
2 Q. What does that mean?  
3 A. That would be a reference to what I was  
4 talking about earlier. That would be the list price  
5 set forth the item by either Abbott Home Infusion  
6 Services, if it was Abbott Home Infusion Services  
7 business, or if it was a client business, it would  
8 be -- they would ultimately be responsible for it,  
9 whether their person actually put it in or whether an  
10 Abbott person put it in there. That would depend upon  
11 the relationship.  
12 Q. Sir, if you could flip to the next page,  
13 which is 2152.  
14 A. Uh-huh. (Witness reviewing document). Okay.  
15 Q. Sir, do you see where it says "Primary Drug"  
16 at the top?  
17 A. Yes.  
18 Q. What does that mean?  
19 A. Reimbursement that was executed by Abbott at  
20 that time for claims for home infusion therapy that  
21 were submitted. The way we operated was that there  
22 was one drug of a therapy that was considered to be  
23 the drug that was used for the pricing for the claim  
24 submitted. So if you had multiple drugs involved, for  
25 example, in a compounded drug where you might have --

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1 in this example the first one I see is Vancomycin.  
2 Vancomycin may be compounded into another drug which  
3 would be a diluent of some sort. The primary drug  
4 would be the Vancomycin as opposed to the diluent, a  
5 solution. So -- so, essentially, it's what is the --  
6 what is the most important drug clinically of the  
7 therapy is the way I would describe it.  
8 Q. And what does it mean when in that first  
9 sentence it says, the flag determines whether or not  
10 an item's AWP will be included in the price schedule  
11 calculations that involve a percentage of AWP?  
12 A. The CHIP system had an automated method of  
13 pricing claims based upon contracted or case managed  
14 agreements when there were those types of agreements  
15 that would be used for producing a claim when the  
16 claim had to be billed at the contracted price. And  
17 that automated system in the CHIP system of doing it  
18 was called price schedules. And that is what this is  
19 referring to.  
20 So, therefore, this flag would be set in  
21 the item file to flag what would be considered to be a  
22 primary drug for the purpose of developing that  
23 AWP-based price --  
24 Q. When you say --  
25 A. -- for that purpose.

39 (Pages 150 to 153)

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1 Q. When you say "contracted price," what do you  
2 mean?

3 A. A price that would be contracted by either  
4 written contractual agreement between a health plan  
5 and a provider or a price that was agreed to on an  
6 individual patient case basis by the health plan and  
7 the provider.

8 Q. Does this apply to situations where Medicaid  
9 or Medicare is reimbursing?

10 A. No.

11 Q. Sir, down at the bottom it says, "Draft  
12 Document 10/12/99." Do you see that?

13 A. Yes.

14 Q. Is -- have you ever seen a final version of  
15 this document?

16 A. Not that I recall.

17 Q. Okay. Do you know why you retained --

18 A. Did I -- did I submit one?

19 Q. Well, do you know why you retained a draft  
20 document?

21 A. This was something that was probably a work  
22 in progress -- process and it was never completed  
23 would be my best information I could give you.

24 Q. Did you use it and rely upon it?

25 A. When I was involved -- primarily when I was

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1 involved in the -- as manager of client services, yes,  
2 I would rely on this.

3 Q. Okay. And you'd rely upon it for providing  
4 advice to the CHIPs contractors, for the CHIPs  
5 clients?

6 A. The CHIP clients.

7 Q. Or licensees?

8 A. And also the -- the reimbursement staff  
9 within Abbott, yes.

10 Q. Do you know whether the other reimbursement  
11 director would utilize this information?

12 A. Who do you mean by the other reimbursement  
13 director?

14 Q. Well, there were two when you were there.

15 A. Well, this document was -- this date, at  
16 least, is after -- is well -- is after I was  
17 reimbursement supervisor.

18 Q. Okay.

19 A. So ...

20 Q. Do you know whether the reimbursement  
21 supervisors would utilize this document?

22 A. I would think they might, yes.

23 MS. ST. PETER-GRIFFITH: Is now a good  
24 time to take a break?

25 MR. STETLER: Whatever is good for you.

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1 MS. ST. PETER-GRIFFITH: Yeah, why don't  
2 we at this time.

3 Is that a good time for you, sir?

4 THE WITNESS: Sure.

5 THE VIDEOGRAPHER: We are off the record  
6 at 12:37 p.m. at the end of Tape Number 3.

7 (Lunch recess from 12:37 to 1:35)

8 THE VIDEOGRAPHER: Please stand by. We  
9 are back on the record at 1:35 p.m. with the beginning  
10 of Tape Number 4.

11 Q. (BY MS. ST. PETER-GRIFFITH) Mr. Rodman,  
12 we've taken a lunch break and I just wanted to ask  
13 you, upon reflecting during the lunch break, are there  
14 any answers that you've previously given in your  
15 testimony here today that you would either like to  
16 change or amplify?

17 A. There is one. I think that I mistakenly said  
18 that Medicaid's would be billed at list price. There's  
19 50 states. They have different rules. I have a  
20 pretty hazy recollection that in some of those states  
21 that the claims submitted were to be billed where --  
22 or at least somewhere in the process of maybe getting  
23 authorizations that a cost was to be given to the  
24 states for the purpose of the billing. And so I think  
25 I answered that incorrectly.

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1 Q. Okay. Any other answers that you would like  
2 to -- that you've reflected upon that you want to  
3 either change or amplify?

4 A. No, not at this time.

5 Q. If there is at any time, just speak up and --  
6 and we're happy to put that on the record. Okay?

7 A. Okay. Uh-huh.

8 Q. Sir, earlier today in your testimony you --  
9 you had made a statement regarding providers paying  
10 deep discounts off AWP. Do you recall that?

11 A. I don't think I said deep discounts.

12 Q. You don't?

13 A. I don't recall that.

14 Q. Okay. Do you recall providers -- whether  
15 providers were paid at deep discounts off AWP?

16 A. What's deep? I mean, I -- I may have said  
17 that these days, at least, that the payment is  
18 typically a discount off of AWP --

19 Q. Okay.

20 A. -- for AWP-based reimbursement.

21 Q. And what do you base that upon?

22 A. You know, just at this point generally  
23 talking to some of our NHI members and occasionally  
24 discussing with them, which I can't pass on to others  
25 that would be an issue, but to get a sense of the

40 (Pages 154 to 157)

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<p style="text-align: right;">Page 158</p> <p>1 marketplace, what's happening, as well as talking to  2 them about how some government payers reimburse, which  3 isn't an issue because that's public knowledge.  4 Q. Is it fair to say that you learned this  5 information after you left Abbott?  6 A. Yes.  7 Q. Sir, if you could go back to the document  8 that we were looking at prior to the break. And I  9 would like for you to look at BR 02153. Do you see  10 that?  11 A. Yes.  12 Q. Where it says "Screen Two Fields." What does  13 that mean at the top, "Screen Two Fields"?  14 A. I believe that would mean as the -- this data  15 would be displayed on a CHIP system computer screen,  16 that there would be screen one of the item file,  17 screen two of the item file and probably other  18 screens, also.  19 Q. Okay. Do you see where it says "Price"? If  20 you could just --  21 A. Yes.  22 Q. -- read that paragraph and tell me what your  23 understanding is.  24 A. Okay. Reading the paragraph. "The full list  25 price charged for the item. Also known as U&amp;C price."</p>	<p style="text-align: right;">Page 160</p> <p>1 with that function.  2 Q. Okay. And --  3 A. With the exception of, perhaps, there seemed  4 to be some indication of that on that Lupron letter  5 that you just showed me.  6 Q. Okay.  7 A. But beyond that, I wasn't involved.  8 Q. The next sentence reads, "This information is  9 captured during the invoicing process and is reported  10 in the Gross Sales Report." Do you know what that  11 sentence means?  12 A. Yeah I do. That -- that -- that's an  13 accounting part of the system that had to do with when  14 a sale would be booked, which is different from  15 submitting a claim to a payer, and that was a function  16 called invoicing. A gross sales report was -- was a  17 report that showed your sales.  18 Q. Okay. When would the -- when would the  19 information or the sale be booked under the -- under  20 the CHIP system?  21 A. Usually the day after it was delivered.  22 Q. Okay. Then the next sentence is, "If  23 requested, it may be reported on Page 2 of claims in  24 addition" of "the discounted price." Do you see that?  25 A. Yes.</p>
<p style="text-align: right;">Page 159</p> <p>1 This information is captured during the invoicing  2 process and is reported in the Gross Sales Report. If  3 requested, it may be reported" on "the Page 2 of  4 claims in addition to the discounted price."  5 Q. Okay. Let's break that down. What is --  6 what does "The full list price charged for the item,"  7 what does that mean?  8 A. That's exactly what I had explained earlier,  9 that that would be a list price set by Abbott Home  10 Infusion Services for its business or by the -- or by  11 the client for their businesses as I provided in more  12 detail earlier. That's what that would be.  13 Q. That's what that references.  14 A. Yes.  15 Q. Okay. And what does "Also known as U&amp;C  16 price" mean?  17 A. Usual and customary. I had used that term  18 earlier. I, at least, used the two terms to mean the  19 same thing.  20 Q. Okay. Was that commonplace in Abbott, that  21 the two terms meant the same thing?  22 A. Yes.  23 Q. How is usual and customary price calculated?  24 A. As I, again, answered earlier, I have no  25 knowledge of how that was done. I wasn't involved</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. What does that mean?  2 A. Page 2, we had seen an example of that in  3 that earlier DMERC training document where I had  4 referred to it as an itemized list of detail coming  5 out of the CHIP system. That was also called a Page  6 2.  7 At one time, and, really, it was true  8 when I started there, generally when a claim was  9 submitted to a payer on a 1500 form, you would also  10 provide them with that itemized list of details, which  11 is where the term Page 2 came from, i.e., Page 2 of  12 the claim.  13 It may be reported on the Page 2 of  14 claims in addition to the discounted price. The Page  15 2 could report both the list price and the contracted  16 price, if there was a contracted price that was  17 different on them, and that's what that means.  18 Q. And what does that mean when it says, "In  19 addition to the discounted price," what's the --  20 A. Contracted price.  21 Q. Okay. "Valid List Price," what does that  22 mean? If you could just read that paragraph to  23 yourself and then I'm going to ask you questions.  24 A. (Witness reviewing document). Okay.  25 Q. And what does -- what does -- what does</p>

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1 "Valid List Price" mean?

2 A. The system was designed to not necessarily  
3 specify who, when, where would be putting in that list  
4 price into the item file in terms of a time sequence,  
5 in terms of responsibility. It could have been done  
6 by an Abbott person, it could have been done by a  
7 client person depending on the nature of the  
8 relationship. And this flag was part of that function  
9 where when the list price was put in the system, the  
10 individual doing that was supposed to take some action  
11 on the CHIP system, I guess, to make this field a yes,  
12 which kind of indicated whoever that individual was,  
13 "Yes, I set this price and, therefore, use it."

14 Q. Okay.

15 A. So it was sort of an edit protection.

16 Q. Do you know who would be responsible for  
17 inputting that information and putting the Y?

18 A. I believe that would have been done for the  
19 Abbott business by -- within the contract marketing  
20 department.

21 Q. Of Home Infusion?

22 A. Of Home Infusion.

23 Q. Okay.

24 A. And for the clients, that would be dependent  
25 upon the relationship with the client as to who would

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1 be doing it as to either Abbott -- and if it was  
2 Abbott, it would typically be done in the contract  
3 marketing department. But if it was at the client, I  
4 don't really have knowledge of who would be doing it  
5 there.

6 Q. If it was done by Abbott on behalf of a  
7 client in the contract marketing department, would --  
8 who would provide the information? Would the client  
9 provide the information, the list price information  
10 for input?

11 A. The best of my understanding was that that  
12 would be based upon parameters of how to set up prices  
13 that were ultimately agreed to by the client. They --  
14 they were the ones that directed on how to do it. And  
15 working within those parameters, if an Abbott employee  
16 was doing it, they would be using whatever those  
17 parameters were.

18 Q. Okay. And the next paragraph concerns "Use  
19 Price Ranges." If you could review that to yourself.

20 A. (Witness reviewing document). Okay.

21 Q. And what does that -- what is -- or what are  
22 use price ranges, sir?

23 A. My recollection is that was a function of  
24 pricing a claim as it would appear on that Page 2.  
25 For adding on an additional price to the claim based

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1 upon the -- the specific dosage -- dosage, it says  
2 here, used -- dosage of the drug used in the compound.  
3 That would be the primary drug, as I had explained  
4 earlier.

5 Q. Okay.

6 A. My recollection of that is that the ultimate  
7 outcome is that there would be -- kind of like an  
8 added line to the Page 2 that would have some charges  
9 on it that would be list charges and that's what that  
10 field was used for.

11 Q. Okay. "F11 Price Ranges." Did I say that  
12 correctly? Do you see that?

13 A. Yes.

14 Q. Okay. If you could just read that paragraph,  
15 please, to yourself.

16 A. (Witness reviewing document). Okay.

17 Q. Sir, what are F11 price ranges?

18 A. Well, this -- this is really the same subject  
19 as the previous item. It was just part of the  
20 implementation of that pricing mechanism in the  
21 system. F11 actually stands for function key 11.

22 Q. Okay. And would you have to hit function key  
23 11 to reach a particular screen or field on screen  
24 two?

25 A. If you were to want to look to see how it was

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1 set up, what these prices that were in there, you  
2 would hit F11 to see that. If you had -- I believe  
3 this was a field that would be secured, so only  
4 certain authorized individuals could actually change  
5 those prices. And so I -- I -- to the best of my  
6 recollection, if you happen to have that security, you  
7 could probably change those prices.

8 Q. And do you know who those individuals were?

9 A. Do I have specific recollection? No. In  
10 general, they would have been the same people that  
11 were responsible for pricing that I talked about  
12 earlier.

13 Q. Okay. And, sir, average wholesale price or  
14 "Avg Wholesale Price," do you see that?

15 A. Yes.

16 Q. If you could read that paragraph, please, and  
17 I will ask you some questions about it.

18 A. (Witness reviewing document). Okay.

19 Q. You see the first sentence says, "The average  
20 wholesale price of the item"?

21 A. Yes.

22 Q. Okay. And then the next sentence --  
23 actually, the first full sentence is, "This  
24 information is automatically captured from Redbook  
25 when the NDC number field is completed." Do you see

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1 that?  
 2 A. Yes.  
 3 Q. What does that mean?  
 4 A. For drugs and for enteral formula, in the  
 5 item file there would be a National Drug Code number  
 6 to identify the product, the drug or enteral product.  
 7 And from the Redbook data source there would be an  
 8 average wholesale price that could be obtained for it  
 9 and integrated into the CHIP system. And I talked  
 10 about that earlier and that's what this is referring  
 11 to.  
 12 Q. Okay. The next sentence says, "A user is  
 13 able to change the information pulled from ...  
 14 Redbook, however, it would be replaced with Redbook  
 15 figures during quarterly Redbook updates." Do you see  
 16 that?  
 17 A. Yes.  
 18 Q. What does that mean?  
 19 A. That means that we would have had a mechanism  
 20 in that CHIP system for a user, probably an authorized  
 21 user with the proper security go in and change an AWP  
 22 in the CHIP system.  
 23 Q. Okay. Would that -- why would somebody do  
 24 that?  
 25 A. The only reason that I can recall is that

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1 someone would have detected that there was some fairly  
 2 apparent data problem in the average sales price  
 3 reported by the Redbook source and that it needed to  
 4 be fixed somehow.  
 5 Q. Okay. When you say -- did you just say  
 6 average sales price, is that what you meant?  
 7 A. If I did, I meant average wholesale price.  
 8 Q. Okay.  
 9 A. Sorry.  
 10 Q. And, again, who would be responsible for  
 11 inputting those changes?  
 12 A. Generally I think the contract marketing  
 13 department would be -- these were rare exceptions when  
 14 they would occur. I think that -- did I mention  
 15 earlier, you know, if I didn't, I mean, once in a blue  
 16 moon -- this happened when I was a client services  
 17 manager. Someone would report to me that the AWP from  
 18 this source is totally different than the AWP from  
 19 another source and is something wrong. And that might  
 20 lead to try and -- you know, try and understand what  
 21 the issue was and make some appropriate change. You  
 22 know, whether -- I really don't recall who had the  
 23 security to do that. I would suspect that at least  
 24 during the days that I was reimbursement supervisor it  
 25 was in the contract marketing area.

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1 Q. Do you recall --  
 2 A. Or at the client.  
 3 Q. Okay. Do you recall whether somebody -- do  
 4 you recall ever being involved in a change such as  
 5 this, described in that --  
 6 A. Yeah. I just said, I think there were a  
 7 couple of, I mean, really infrequent instances where  
 8 somebody would have contacted me to try and look at  
 9 something and probably when I was manager of client  
 10 services. It could have happened earlier.  
 11 Q. Do you remember what those changes were?  
 12 A. No.  
 13 Q. The next sentence says, "The value in" the  
 14 "field is used to calculate price schedule rates when  
 15 they are based on a percentage of AWP." Do you see  
 16 that?  
 17 A. Yes, uh-huh.  
 18 Q. What does that mean?  
 19 A. Price scheduling was the CHIP mechanism for  
 20 automatic pricing for submission of claims. When  
 21 claims needed to be submitted at a contracted rate  
 22 that also happened to be based on a percentage of AWP,  
 23 the CHIP system could do that through the price  
 24 schedules that were set up.  
 25 Q. And what claims would be submitted based upon

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1 a percentage of AWP?  
 2 A. To the best of my recollection, claims that  
 3 would be submitted to contracted commercial insurance  
 4 companies for -- some of them, not all of them, for  
 5 situations where there was a case management  
 6 individual patient case agreement.  
 7 And -- and, you know, given the  
 8 clarification that I had just said earlier about  
 9 Medicaid, I mean, there may have been some occurrences  
 10 where Medicaid had to be billed on a -- on a  
 11 percentage of AWP as opposed to full list charges. I  
 12 really don't recall that, but it's possible.  
 13 Q. Okay.  
 14 A. But I will tell you that in general the  
 15 billing for Medicaid was very manual because of very  
 16 difficult billing processes, not well designed for  
 17 home infusion with Medicaid, and so not all of it  
 18 would be done --  
 19 Q. What about --  
 20 A. -- directly through the CHIP system either.  
 21 Q. What about for Medicare?  
 22 A. Medicare was always billed at list price to  
 23 the best of my knowledge.  
 24 Q. Was always billed at what?  
 25 A. List price, to the best of my knowledge.

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1 Q. And if you could read the next one. It says,  
2 "Reimb Description." I assume that means  
3 reimbursement description?

4 A. Yes.

5 Q. Okay.

6 A. (Witness reviewing document). Okay.

7 Q. Sir, can you explain what reimbursement  
8 description means?

9 A. It was a free form field, a text field, as it  
10 says, that could be maintained on the item file and it  
11 would print after the listing of an item on the Page 2  
12 of a claim printout. There's a suggestion in here as  
13 to how to use it, which is to clarify for the health  
14 plan that was processing the claim what the billing  
15 units were and that's what it is.

16 Q. If you could turn to the next page.  
17 "Procedure Cd/Modifier." Do you see that? If you  
18 could just review that paragraph.

19 A. (Witness reviewing document). Yes.

20 Q. Sir, what is a procedure cd/modifier?

21 A. "Procedure Cd" stands for procedure code.  
22 That would be the HCPCS codes that we talked about  
23 earlier. There is also a place on a 1500 claim form,  
24 or the equivalent of electronic, to what's called  
25 modify your code billing using something called a

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1 modifier and that's what modifier stands for.

2 Q. And would you have occasion to use that  
3 modifier code when you were in the reimbursement --  
4 Home Infusion reimbursement department?

5 A. To -- you would have occasion to bill claims  
6 with a modifier on them, one or more modifiers, yes.

7 Q. Okay. When would you do that?

8 A. You know, one example would be in Medicare  
9 for a pump -- these types of things change over time.

10 Q. Okay.

11 A. So -- but you -- for -- for a -- for a pump,  
12 which was durable medical equipment in Medicare Part B  
13 terminology, the patient typically would be renting  
14 the pump and there would be -- if I recall correctly,  
15 you had to indicate that this was my first month of  
16 billing and put a modifier in there, something like RR  
17 to indicate rental. And I don't remember these  
18 details, so I'm just sort of giving you an idea. But  
19 you had to -- you had to notify the patient in like  
20 the tenth or eleventh month that they had the option  
21 to purchase a pump after the fifteenth month if they  
22 were in service that long and you had to put a  
23 modifier on that claim to indicate to the DMERC that  
24 you had, in fact, notified the patient. Stuff like  
25 that.

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1 Q. Okay. How were patients supplied these pumps  
2 on a rental basis?

3 A. What are you looking for?

4 Q. Well, let me clarify. You indicated that  
5 patients would -- would rent the pumps?

6 A. Typically, yes.

7 Q. How would that -- how would that occur?

8 A. Well, the patients -- the home infusion  
9 therapy pharmacy was responsible for delivering the  
10 pump as well as -- between patients assuring the  
11 quality and also assuring the quality of the operation  
12 of the pump during the whole episode of the therapy.  
13 So a pump would be delivered by the home infusion  
14 therapy pharmacy to the patient.

15 What was the rest of your question?

16 Q. Okay. Let me -- let me clarify my question.  
17 Would there be a rental agreement between the patient  
18 and the provider?

19 MS. FUMERTON: Objection, form.

20 A. No, not -- not -- certainly not in writing.

21 Not that I can recall ever.

22 Q. (BY MS. ST. PETER-GRIFFITH) How would the  
23 rental relationship be documented?

24 A. Really on the claim.

25 Q. Just on the claim?

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1 A. There would be a rental fee.

2 Q. Okay. And would Abbott ever provide to its  
3 customers pumps free of charge?

4 MS. FUMERTON: Objection to form.

5 A. I don't have specific recollection of how  
6 that was done.

7 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Do you  
8 know how much Abbott charged to provide pumps to its  
9 customers?

10 A. No.

11 Q. Do you know whether Abbott leased pumps to  
12 its customers?

13 A. I don't have specific recollection of that.

14 Q. In the contracts between Abbott Home Infusion  
15 and its consignment partners or its -- its partner,  
16 its infusion partners, whereby Abbott would provide  
17 product on a consignment basis, would Abbott -- do you  
18 know whether Abbott would provide pumps free of  
19 charge?

20 A. I just don't have specific recollection.

21 Q. The next item says "Price Group." Do you see  
22 that, sir? On this page, I'm sorry.

23 A. Yes.

24 Q. Page 2154.

25 A. Uh-huh.

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<p style="text-align: right;">Page 174</p> <p>1 Q. Can you just read that to yourself?</p> <p>2 A. (Witness reviewing document). Okay.</p> <p>3 Q. Sir, what does price group mean?</p> <p>4 A. My recollection is it was a way to categorize</p> <p>5 products for purposes of -- of doing exactly what it</p> <p>6 says here. A -- this automated price scheduling</p> <p>7 feature, could use it to -- you know. Price group</p> <p>8 equals to do this when it was pricing a product on a</p> <p>9 claim.</p> <p>10 And the other thing it talks about is to</p> <p>11 do a mass price change, which would mean that if price</p> <p>12 group equals two, do this to this change to do a</p> <p>13 change in the list pricing on the item file that we</p> <p>14 talked about. So that's what it would be.</p> <p>15 Q. Is this a feature that would be used often?</p> <p>16 A. The mass price change would not be done</p> <p>17 often.</p> <p>18 Q. Okay. What about the individual price</p> <p>19 changes?</p> <p>20 A. Again, that was out of my area of</p> <p>21 responsibility or specific knowledge and I think</p> <p>22 that -- I mean, I just -- I don't have -- I'm not sure</p> <p>23 I ever had that knowledge.</p> <p>24 Q. Okay. The next item says "Units/Each." Do</p> <p>25 you see that?</p>	<p style="text-align: right;">Page 176</p> <p>1 which says "Item File Procedure."</p> <p>2 A. Uh-huh.</p> <p>3 Q. Sir, do you see at the top it's a discussion</p> <p>4 about adding new item files?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And then the next paragraph down it says --</p> <p>7 starts, "When adding a new list number to the Item</p> <p>8 File, the rule of thumb is." Do you see that?</p> <p>9 A. Uh-huh.</p> <p>10 Q. And it says, "Drugs: U&amp;C is based" upon "AWP</p> <p>11 so it is necessary to have" the "correct NDC entered</p> <p>12 into" the "CHIP system."</p> <p>13 A. Uh-huh.</p> <p>14 Q. What does that mean?</p> <p>15 A. I think what that means is what we talked</p> <p>16 about earlier, that -- oh, wait a minute. Let me back</p> <p>17 up. I think that is indicating that the setting of</p> <p>18 the U&amp;C, also called list price, for a drug on the</p> <p>19 CHIP system would be based upon AWP, as it says.</p> <p>20 Q. Okay. Would that be true just for Abbott or</p> <p>21 would that also be true for Abbott's customers?</p> <p>22 MS. FUMERTON: Objection, form.</p> <p>23 A. Well, I think that would be true for any</p> <p>24 drugs that were on the system for how that was being</p> <p>25 done in the CHIP system. This is an area of contract</p>
<p style="text-align: right;">Page 175</p> <p>1 A. Yes.</p> <p>2 Q. Does that mean sort of what it says, the</p> <p>3 number of units or number of items used?</p> <p>4 A. In order to bill Medicare, as it says here</p> <p>5 you -- actually, rather than to bill them on like cans</p> <p>6 or on milliliters, you had to bill them on calories of</p> <p>7 nutrients provided and this field here was used for</p> <p>8 the system to automatically compute that.</p> <p>9 Q. So was this just for enteral products?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So the Ross-type nutrition products</p> <p>12 then?</p> <p>13 A. There's a possibility it would have been</p> <p>14 other manufacturers. I'm not sure. But yes.</p> <p>15 Q. Okay. What about for glucose products?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. And then "Calories/Unit." Do you see</p> <p>18 that?</p> <p>19 A. Yes.</p> <p>20 Q. This is, again, another field for enteral</p> <p>21 products?</p> <p>22 A. Yes.</p> <p>23 Q. And what would that mean, generally?</p> <p>24 A. It was used for the same purpose.</p> <p>25 Q. Okay. If you could turn to 2155, please,</p>	<p style="text-align: right;">Page 177</p> <p>1 marketing that I was never involved in --</p> <p>2 Q. (BY MS. ST. PETER-GRIFFITH) Okay. That --</p> <p>3 A. -- so I'm -- you know, maybe I'm going</p> <p>4 further than I should be saying at this point</p> <p>5 because -- ask them.</p> <p>6 Q. You're -- you're anticipating my next</p> <p>7 question, sir.</p> <p>8 A. Okay.</p> <p>9 Q. Okay. Did you have any involvement with</p> <p>10 adding new list numbers to the item file?</p> <p>11 A. No, not directly. I mean, I had some</p> <p>12 involvement later as manager of client services and</p> <p>13 training clients and I would do various things in the</p> <p>14 CHIP system, so I would have had some involvement</p> <p>15 there.</p> <p>16 Q. Well, when you had some involvement, then,</p> <p>17 in -- in training clients, what would you train them</p> <p>18 with regard to this particular subject matter</p> <p>19 concerning adding new list items?</p> <p>20 A. I doubt that I would have trained them</p> <p>21 anything, but I have no specific recollection.</p> <p>22 Q. Okay. The next item down says, "Supplies:</p> <p>23 U&amp;C based on acquisition cost so this information must</p> <p>24 be provided."</p> <p>25 A. Uh-huh.</p>

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<p>1 Q. What does that mean?</p> <p>2 A. To be honest, I don't know.</p> <p>3 Q. Do you know why the U&amp;C for drugs was not</p> <p>4 also based upon acquisition cost?</p> <p>5 A. No, I don't.</p> <p>6 Q. Do you recall any discussion at Abbott</p> <p>7 about -- about the difference between drugs -- U&amp;Cs</p> <p>8 for drugs being based upon AWP as compared to</p> <p>9 supplies, which was based upon --</p> <p>10 A. I don't recall any discussion I was ever</p> <p>11 involved in.</p> <p>12 Q. Okay. Sir, if you could flip to Page 2157,</p> <p>13 please.</p> <p>14 A. (Witness complies).</p> <p>15 Q. If you look down, it says, in the middle of</p> <p>16 the page, "Abbott Item File Standardized Naming</p> <p>17 Conventions." Do you see that?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And then it says, "Drugs (Both Compounded and</p> <p>20 Non-Compounded)."</p> <p>21 A. Uh-huh.</p> <p>22 Q. And then Item 1, "All drugs will be entered</p> <p>23 generically, with few exceptions."</p> <p>24 A. Uh-huh.</p> <p>25 Q. "No abbreviations should be used unless it is</p>	<p>1 remember earlier this morning I talked -- I remembered</p> <p>2 a project that I was on.</p> <p>3 Q. Yeah.</p> <p>4 A. I believe this was it.</p> <p>5 Q. Does this refresh your recollection</p> <p>6 concerning that project, sir?</p> <p>7 A. Well, a little bit.</p> <p>8 Q. Okay.</p> <p>9 A. Yeah.</p> <p>10 Q. Sir, this is --</p> <p>11 A. It was a long time ago.</p> <p>12 Q. -- from Dave Brincks to Mike Sellers and it</p> <p>13 says, "Item File/Product Groups." Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. On the re line.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And it says, "Shellie Bronson, Bruce</p> <p>18 Rodman," which is you, right?</p> <p>19 A. Uh-huh.</p> <p>20 Q. "And Lynn Leone are working as a team to</p> <p>21 update the System 50 item file."</p> <p>22 A. Yes.</p> <p>23 Q. What does that mean?</p> <p>24 A. Updating the item file is probably fairly</p> <p>25 obvious, so I think your question may have to do with</p>
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<p>1 an actual part of the generic name." Do you see that?</p> <p>2 A. Uh-huh.</p> <p>3 Q. What does that mean?</p> <p>4 A. In the item file you had to name your product</p> <p>5 because it was important when someone was looking at</p> <p>6 the item file, and perhaps on these Page 2s, and other</p> <p>7 places, to understand what the product was that had a</p> <p>8 number assigned to it. So this would be the product</p> <p>9 description and this was indicating just a convention</p> <p>10 of how to name it.</p> <p>11 Q. Okay. Sir, if I could have you flip to</p> <p>12 BR 02163.</p> <p>13 A. Uh-huh.</p> <p>14 Q. And is this a memorandum?</p> <p>15 A. It is.</p> <p>16 Q. Okay. And who's it from?</p> <p>17 A. Dave Brincks.</p> <p>18 Q. Dated what?</p> <p>19 A. David E. Brincks.</p> <p>20 Q. I'm sorry, no. Dated -- what's the date?</p> <p>21 A. Oh, dated. September 6, 1994.</p> <p>22 Q. And who is it to?</p> <p>23 A. To Mike Sellers.</p> <p>24 Q. And, sir, if you could review this document.</p> <p>25 A. (Witness reviewing document). Well, you</p>	<p>1 the System 50.</p> <p>2 Q. Yes. I'm sorry, yes.</p> <p>3 A. Yes. The CHIP system had the capability to</p> <p>4 have totally different databases for different clients</p> <p>5 and -- so you could have for one client an item master</p> <p>6 that -- different sets of products, different prices,</p> <p>7 different, et cetera, than for a second client or a</p> <p>8 third client. And then you had a database for</p> <p>9 Abbott's business that was conducted in Abbott's name</p> <p>10 and that's what was called the System 50.</p> <p>11 Q. Okay. So this concerned Abbott claims then</p> <p>12 or claims for Abbott products?</p> <p>13 A. It definitely would have concerned -- it</p> <p>14 would have impacted claims that Abbott submitted in</p> <p>15 their name. My recollection is that there was a</p> <p>16 capability to submit claims in other people's names</p> <p>17 from that system and that's a hazy recollection.</p> <p>18 Q. Okay. Do you remember which clients you</p> <p>19 would potentially have been able to submit claims</p> <p>20 from?</p> <p>21 A. It's too long ago.</p> <p>22 Q. Okay. Would it have been the reimbursement</p> <p>23 clients, the ones who contracted for reimbursement</p> <p>24 services?</p> <p>25 A. Yes.</p>

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1 Q. And if you read down -- well, the next  
2 sentence says that you stayed -- you were staying in  
3 the evenings to work on it and you were planning on --

4 A. See, that was why I remember this.

5 Q. And then the next paragraph describes a  
6 series of seven different enumerated items which  
7 indicate how the files are being updated by group. Do  
8 you see that?

9 A. Uh-huh.

10 Q. Product description under Item 1. "Make all  
11 descriptions consistent and easily understood by all  
12 users."

13 A. Uh-huh.

14 Q. Why were you doing that?

15 A. You know, the CHIP system was a very  
16 operational system. It was used by a lot of people  
17 for different functions. It made some sense that  
18 ranging from pharmacy to reimbursement, another area  
19 that people that could understand through some  
20 consistency of what they were seeing in the CHIP  
21 system, and that's why this was done.

22 Q. The next item says, "NDC's - updating all NDC  
23 numbers to be sure they are correct for use when AWP  
24 matches NDC numbers." Do you see that?

25 A. Uh-huh.

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1 Q. What does that mean?

2 A. Drugs were to be identified on the system  
3 with NDC numbers, and as we talked about earlier,  
4 there were automated capabilities in the CHIP system  
5 to use AWP-based data fields to either price claims or  
6 at least price the reporting of expected collections.  
7 And this had to do with having the data as accurate as  
8 possible.

9 Q. The next item, Number 3, says, "Creating  
10 product groups for all products. This can be used to  
11 change prices by product group or change procedure  
12 codes for ... override file." Do you see that?

13 A. Yes.

14 Q. Does -- does this means what it sounds like,  
15 that not all products were within particular groups  
16 and that you grouped all the products?

17 A. Probably.

18 Q. Do you have a recollection of that?

19 A. Not -- not -- no, really not specifically.

20 Q. Okay. I know this goes back to '94.

21 A. This was -- you know, these -- these types of  
22 fields were -- was the responsibility of the contract  
23 marketing department. Lynn Leone was in the  
24 department. As you can see, Dave Brincks wrote it.  
25 And I was involved in the project because, you know,

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1 the fields were used by reimbursement in some cases,  
2 at least, and I was one of the team to try and get  
3 some data consistency into this file.

4 Q. Is that the reason why they brought in folks  
5 from the reimbursement department? You've sort of  
6 anticipated were my next questions.

7 A. Yeah, I would say so.

8 Q. Okay. Number 4 says, "Updating prices of  
9 individual products for greater consistency,  
10 particularly in relation to AWP." What does that  
11 mean?

12 A. I don't have a specific recollection of that.

13 Q. Okay. Do you remember updating prices of  
14 individual products?

15 A. I don't, actually.

16 Q. Okay. The next item says, "Entering correct  
17 reimbursement descriptions for enteral" nutritions "to  
18 aid in Medicare billing." Do you see that?

19 A. Yes.

20 Q. Why did you need to do that?

21 A. You know -- well, we talked about that  
22 earlier about what that -- I think we said that  
23 reimbursement description field, did that -- did that  
24 not have an enteral example earlier --

25 Q. Yes, it did.

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1 A. -- and it had to do with calories per can, or  
2 something like that. And the system was not as  
3 automated as we would like it to be in aspects of  
4 billing because it was already very complicated. And  
5 my recollection of this was that some of the  
6 computations to -- actually for the billers to get the  
7 right unit billed in numbers of calories, there may  
8 have been some hand cranking and by having a  
9 description on how many calories are in a can that  
10 would be visible to them, this would be useful.

11 Q. Did you create that function, do you recall?

12 A. I'm sorry?

13 Q. Did you create that function at that time?

14 A. What does that mean?

15 Q. Meaning was -- was that -- was that  
16 description already in there or was part of your  
17 revision of the System 50 --

18 A. Adding it for the first time?

19 Q. -- adding it for the first time?

20 A. I don't recall.

21 Q. Do you know whether there were problems with  
22 billing to Medicare prior to September 6, 1994 when  
23 you folks undertook this particular project?

24 A. I'm not aware that there --

25 MS. FUMERTON: Objection, form.

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<p style="text-align: right;">Page 186</p> <p>1 A. I'm not aware that there were.</p> <p>2 Q. (BY MS. ST. PETER-GRIFFITH) Under Item 6 it</p> <p>3 says, Enter "correct procedure codes for all products.</p> <p>4 Depending on payor, we may need to override this most</p> <p>5 common procedure code. Use of the product group for</p> <p>6 override facilitates this function." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. What does that mean?</p> <p>9 A. That means entering the HCPCS code. That</p> <p>10 means that for different payers you may have had to</p> <p>11 have billed the same product or set of products with</p> <p>12 different HCPCS codes because of the craziness of the</p> <p>13 billing structure. Frankly, I don't recall what the</p> <p>14 third one means. There was, apparently, some override</p> <p>15 capability based on this product group field.</p> <p>16 Q. Which -- do you remember which payers the</p> <p>17 override feature was necessary for?</p> <p>18 A. I don't. I don't have much recollection of</p> <p>19 that at all.</p> <p>20 Q. Okay. If you could look at Item Number 7,</p> <p>21 Enter "correct calories per can." Do you see that</p> <p>22 item?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Is that the enteral nutrition field code that</p> <p>25 was -- that you were talking about before?</p>	<p style="text-align: right;">Page 188</p> <p>1 THE WITNESS: Be my guest.</p> <p>2 Q. (BY MS. ST. PETER-GRIFFITH) Sir, the first</p> <p>3 page I would like to draw your attention to is 2189.</p> <p>4 I think it's the next one.</p> <p>5 A. Uh-huh.</p> <p>6 Q. Sir, what is this document?</p> <p>7 MS. FUMERTON: Can I see your copy</p> <p>8 just --</p> <p>9 MS. ST. PETER-GRIFFITH: Sure.</p> <p>10 MS. FUMERTON: We are moving on to an</p> <p>11 area I wasn't looking at before.</p> <p>12 MS. ST. PETER-GRIFFITH: (Tenders</p> <p>13 document).</p> <p>14 MS. FUMERTON: Thanks.</p> <p>15 MS. NESBITT: What number is that?</p> <p>16 MS. ST. PETER-GRIFFITH: This is 2189.</p> <p>17 MR. STETLER: While he's looking at</p> <p>18 that, during a break I could get a computer for you</p> <p>19 guys to share and if you wanted to put the CD in</p> <p>20 there, you could look at it. Never mind.</p> <p>21 MS. FUMERTON: Yeah. No. If we're</p> <p>22 going to be going through more looseleaf-type</p> <p>23 documents, I think it would be helpful just because</p> <p>24 then I have an idea of what we're talking about.</p> <p>25 A. Okay. Okay. I know what this is.</p>
<p style="text-align: right;">Page 187</p> <p>1 A. It's one of them, I think, yes.</p> <p>2 Q. So you were updating so that the system</p> <p>3 could, for Medicare billing, more efficiently or more</p> <p>4 accurately reflect the appropriate amount of calories</p> <p>5 per can as required and units required?</p> <p>6 A. To my recollection, there was some automation</p> <p>7 in the system on that or perhaps there wasn't because</p> <p>8 we also -- I talked about that reimbursement text</p> <p>9 field that could be used to put it in, which was just</p> <p>10 a text field. So how well it was automated versus how</p> <p>11 much billers had to do was beyond my ability to</p> <p>12 remember. But it was certainly related to that.</p> <p>13 Q. Okay. Do you recognize the handwriting on</p> <p>14 this document?</p> <p>15 A. Well, I see a signature and at this time I</p> <p>16 probably only knew one Mike that would probably have</p> <p>17 written this.</p> <p>18 Q. Okay. And who would that Mike be?</p> <p>19 A. That would be Mike Sellers.</p> <p>20 Q. Do you recognize Mike Sellers' handwriting?</p> <p>21 A. No, not specifically.</p> <p>22 Q. Sir, I think we are done with this particular</p> <p>23 document and if we can move to the red folder.</p> <p>24 A. Okay.</p> <p>25 MR. STETLER: I'll take that.</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) Okay, sir. What</p> <p>2 is this?</p> <p>3 A. You could do specialized, you know, on-demand</p> <p>4 reporting through a tool called query reporting in the</p> <p>5 CHIP system to extract information out of it. Is</p> <p>6 there a date on this? No. But looking at this, this</p> <p>7 was probably something that -- this is my handwriting.</p> <p>8 Q. Okay.</p> <p>9 A. And during that period of time when I was</p> <p>10 manager of client services we were considering a</p> <p>11 proposal for charging our clients for Abbott staff to</p> <p>12 actually write a query report for them and these were</p> <p>13 some notes that I probably took myself for either</p> <p>14 developing a proposal or for a meeting, or something</p> <p>15 like that, on what the elements of that would be.</p> <p>16 Q. Sir, before we continue on with this</p> <p>17 document, with regard to the hard copies of documents</p> <p>18 that you produced pursuant to the subpoena, there was</p> <p>19 at least one handwritten document which contained</p> <p>20 notations from you concerning a conversation with a --</p> <p>21 an Abbott lawyer that were retained for privilege</p> <p>22 purposes. This isn't that document, is it?</p> <p>23 A. Well, I don't know what was retained --</p> <p>24 Q. Okay.</p> <p>25 A. -- but this is not that.</p>

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1 Q. How often have you spoken with Abbott  
2 lawyers, without telling me what your -- the content  
3 of the conversations.  
4 A. Well, very infrequently.  
5 Q. Okay.  
6 A. You know, my recollection is I think maybe  
7 when we were -- I mean, there was some matter of  
8 contracts somewhere in my career that I was involved  
9 in where we would go to a lawyer, I think, for that.  
10 I don't have specific recollections, I'm sorry.  
11 Q. Okay.  
12 A. It was infrequent.  
13 Q. Do you recall reviewing the notes that were  
14 withheld on attorney-client grounds?  
15 A. Even though I had turned them over to my  
16 lawyer, I do not recall that.  
17 Q. Okay. Do you recall any conversations with  
18 lawyers at Abbott that might have been the basis for  
19 the notes?  
20 A. I don't know what those notes were. They  
21 must have been, to the best of my knowledge, buried in  
22 some of the other materials that I was just throwing  
23 in files for.  
24 Q. Well, without telling me what your  
25 conversations were with Mr. Stetler, what's the basis

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1 for the assertion of privilege, do you know?  
2 A. I have no idea.  
3 MS. FUMERTON: Well, objection --  
4 MR. STETLER: He's not asserting the  
5 privilege, so ...  
6 MS. ST. PETER-GRIFFITH: Okay.  
7 MS. FUMERTON: We're asserting the  
8 privilege on behalf of Abbott.  
9 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Did you  
10 confer with counsel for Abbott about the content of  
11 those notes?  
12 A. No.  
13 MS. ST. PETER-GRIFFITH: Mr. Stetler,  
14 did you?  
15 MR. STETLER: They gave me a direction.  
16 I followed it. I took a look at the notes. It  
17 appeared that they have a colorable claim, and so  
18 that's my obligation to that.  
19 MS. ST. PETER-GRIFFITH: Okay. We don't  
20 have a privilege log on them. Do you remember what  
21 the dates of them were?  
22 MS. FUMERTON: I believe that some of  
23 that information -- I can't recall the exact detail of  
24 the information, but I know some information was  
25 provided to you at the time that the documents were

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1 being produced.  
2 MS. ST. PETER-GRIFFITH: Yeah. I don't  
3 know what the date was. That's --  
4 MS. FUMERTON: I cannot recall that  
5 either. I do not know what was -- I cannot recall  
6 what was contained in that e-mail.  
7 MS. ST. PETER-GRIFFITH: Okay.  
8 MR. STETLER: It's not an e-mail.  
9 MS. FUMERTON: No. But when we produced  
10 the documents, remember, we had --  
11 MR. STETLER: Oh, your communication.  
12 I'm sorry.  
13 MS. FUMERTON: Yeah. We had sent an  
14 e-mail explaining that we are withholding one document  
15 and giving a -- and we gave a brief description of it.  
16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Sir, if  
17 you can move on to the next page.  
18 First, let me ask you, do you have any  
19 recollection what these handwritten notes concern?  
20 A. Yes. That's what I said. It had to do with  
21 establishing a charge for Abbott staff to be writing  
22 queries for our customers on the CHIP system for  
23 reporting purposes.  
24 Q. Okay. For reporting to who?  
25 A. Special reporting. Anybody that wanted to

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1 see it for anything.  
2 Q. Okay. Did someone ask you to do that?  
3 A. Do what?  
4 Q. To -- to create that -- that mechanism  
5 whereby special reports could be generated.  
6 A. I really don't recall how this came up.  
7 Q. When -- when issues like this concerning the  
8 CHIP system arose, did you work with a computer  
9 programmer to help facilitate the system?  
10 A. Well, an issue like this would be doing  
11 specialized reporting to draw reports out of the  
12 system. I did -- you know, sometimes I would do  
13 queries. And I actually taught others how to do  
14 queries later on in client services. There were  
15 people in the systems department that were better than  
16 I on how to use the query system, so, therefore, I  
17 would consult with them from time to time on how to do  
18 a query.  
19 Q. Okay. Did you -- with regard to any work  
20 that you did with regard to the CHIP system, did you  
21 work with a computer programmer?  
22 A. Sure.  
23 Q. Okay. Who -- who were the computer  
24 programmers that you worked with?  
25 A. You're asking for names that I can recall?

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1 Q. Yes, that you can recall.  
 2 A. Jerrie Goldstein, Sarah Card, Zen Focks,  
 3 F-o-c-k-s.  
 4 MR. STETLER: Watch your language, will  
 5 you?  
 6 A. There were others, but those are the names  
 7 I'm recalling right now.  
 8 Q. (BY MS. ST. PETER-GRIFFITH) If you could  
 9 flip to the next page, please, 2190.  
 10 A. Okay.  
 11 Q. Sir, do you see where it says  
 12 "Unpredictable" -- "Unpredictable therapy day length"?  
 13 A. Uh-huh.  
 14 Q. What does that mean?  
 15 A. (Witness reviewing document). I'm  
 16 struggling. Sorry. There's a lot of detail here.  
 17 Q. That's okay.  
 18 A. You know, right now I can only get in the  
 19 general ballpark here as opposed to give you a  
 20 specific answer.  
 21 Q. Okay. Well, what generally does it mean?  
 22 A. The general ballpark is that there were  
 23 certain therapies that -- you know, when you bill a  
 24 claim, you -- you -- you would bill sometimes,  
 25 depending on the payer, the from date and the to date

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1 for providing the service. For some payers the length  
 2 of -- the number of days might actually reflect the  
 3 amount that you were going to be paid because you  
 4 would get paid on that basis. And for certain  
 5 therapies, e.g., pain, catheter care and enteral  
 6 nutrition therapies, there was some difficulty in  
 7 determining, really, how long a therapy would be for  
 8 or had been for because of some of the really  
 9 masochistic type of calculations, and whatever, that  
 10 had to be done. And that's the ballpark general  
 11 answer here.  
 12 Q. Okay. Under Item A in the last sentence  
 13 reads, "Drugs could still be billed at AWP-based or  
 14 some other pricing." Do you see that?  
 15 A. Yes.  
 16 Q. What does that mean?  
 17 A. I would interpret this to mean that whatever  
 18 the rest of it meant in terms of billing something  
 19 daily or monthly, that drugs were billed separately  
 20 and they would be billed based on mechanisms that we  
 21 had already discussed, such as AWP-based mechanisms.  
 22 Q. Okay. Do you recognize this document at all?  
 23 A. Well, how do I put this? I could have  
 24 written it, but do I really recognize it? No.  
 25 Q. Okay. But it's possible that you drafted it?

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1 A. It is possible.  
 2 Q. And it says at the top, "Solutions Recognized  
 3 to Common Reimbursement." Is it fair to say that this  
 4 document was used by the reimbursement department?  
 5 A. No, I don't think that is fair to say.  
 6 Q. Okay.  
 7 A. I think that it's probably a document that --  
 8 well, you know, I know that more from this envelope  
 9 here that I did -- it says "Price Schedule Class."  
 10 One of the things I did as a client services manager  
 11 in those later years was to teach people how to use  
 12 this automated pricing system on the CHIP system and  
 13 this document was either a handout or simply something  
 14 internal that I may have used to do that. That's  
 15 about the best of my recollection.  
 16 Q. And can you identify where -- is it just a  
 17 two-page document, 2190 and 2191?  
 18 A. It appears to be.  
 19 Q. Okay, sir. The next document I would like to  
 20 ask you about is --  
 21 If you could go to what says Exhibit E,  
 22 which is 2195 and 96 and 97 through 98.  
 23 A. Okay.  
 24 Q. Sir, what are these documents?  
 25 A. These are redacted in some -- well, redacted,

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1 but examples of real contracts or a real -- at least a  
 2 real contract, it appears to be. It would be a real  
 3 contract.  
 4 Q. And is the contract with Home Health &  
 5 Hospice?  
 6 A. Actually, it appears, from what I'm seeing,  
 7 that the name of the client was not redacted on the  
 8 last three pages, so it was with one of our clients,  
 9 Parkview Home Health & Hospice. And so these were --  
 10 these were kind of samples of a real contract that  
 11 they would have had with a payer.  
 12 Q. And who did the redaction?  
 13 A. I don't have a recollection of that.  
 14 Q. Do you know whether you may have?  
 15 A. I may have.  
 16 Q. Okay. And at the top it says "Home Infusion  
 17 Therapies" sort of in dark. Do you see that in  
 18 dark -- I'm sorry, on 2195. On Page 2195.  
 19 A. Yes.  
 20 Q. And at the top in darkened in it says, "Home  
 21 Infusion Therapies." Do you see that?  
 22 A. Yes.  
 23 Q. Can you describe what each of the columns  
 24 means, "Item Number," "Units," "Item Description"?  
 25 A. I think so.

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<p style="text-align: right;">Page 198</p> <p>1 Q. Okay. What does that mean?</p> <p>2 A. Well, item number is just a line count for</p> <p>3 reference on the contract.</p> <p>4 Q. Okay. And units?</p> <p>5 A. Most of those don't have -- it's not</p> <p>6 applicable, but for anti -- anti-infective products,</p> <p>7 there could be different pricing for the supplies and</p> <p>8 service component by frequency of administration, such</p> <p>9 as q2 -- 12h indicates every 12 hours --</p> <p>10 Q. Okay.</p> <p>11 A. -- would be the administration of the</p> <p>12 antibiotic to the patient in the home.</p> <p>13 Q. And item description?</p> <p>14 A. Well, that indicates the general category of</p> <p>15 the therapy, such as -- I don't know what ACTH stands</p> <p>16 for, but later on antibiotic, antiviral, antifungal,</p> <p>17 chemotherapy, and et cetera.</p> <p>18 And then those codes that are</p> <p>19 handwritten in there were probably the nonstandardized</p> <p>20 different by payer billing codes, these are not HCPCS</p> <p>21 codes, billing codes that were used at this time to</p> <p>22 bill whoever this payer was.</p> <p>23 Q. And at the top there's a fax -- fax legend.</p> <p>24 Do you see that? It says June 8th, 2000. It's 20 --</p> <p>25 2195, at the very top of --</p>	<p style="text-align: right;">Page 200</p> <p>1 primary drug provided at the same time in the course</p> <p>2 of the therapy, more than one antibiotic. There would</p> <p>3 be, on those cases, an additional per diem that would</p> <p>4 be billed. Some contracts call for the second per</p> <p>5 diem rate to be different from the first rate and</p> <p>6 typically less. So that refers to if there was a</p> <p>7 second or a third drug being provided that was an</p> <p>8 antibiotic, anti-viral, anti-fungal therapy, that's</p> <p>9 what that means.</p> <p>10 Q. When you say "contracts," what are you --</p> <p>11 what are you referencing when you say contracts?</p> <p>12 A. This would be a contract between a commercial</p> <p>13 payer, and in this particular case, as seen by a not</p> <p>14 very good job of redaction, Parkview Home Health &amp;</p> <p>15 Hospice.</p> <p>16 Q. And, sir, would this apply to Medicaid or</p> <p>17 Medicare reimbursement?</p> <p>18 A. No.</p> <p>19 Q. Okay. It says, "Fee schedule Per Day + AWP."</p> <p>20 Do you see that?</p> <p>21 A. Yes. Yes.</p> <p>22 Q. What does that mean?</p> <p>23 A. Per day means per diem, as I just explained.</p> <p>24 In this particular case it would appear that the drug</p> <p>25 itself was being paid for at AWP.</p>
<p style="text-align: right;">Page 199</p> <p>1 A. Yes.</p> <p>2 Q. Does that give you an approximation as to</p> <p>3 when this document may have been created?</p> <p>4 A. Well, it was probably after that.</p> <p>5 Q. It was probably after that. What about down</p> <p>6 at the bottom where it says 092997?</p> <p>7 A. Oh, let me restate that. That's -- no. It</p> <p>8 was probably received by Abbott Home Infusion after --</p> <p>9 you know, on that date of June 8th, that -- that would</p> <p>10 be my assumption. You know, do I have specific</p> <p>11 knowledge of what that code on the bottom means? No.</p> <p>12 So leave it at that.</p> <p>13 Q. Okay. Where it says "Fee 1st Drug," do you</p> <p>14 see that?</p> <p>15 A. I'm sorry, where?</p> <p>16 Q. At the top of "Home Infusion Therapies" it</p> <p>17 says "Fee 1st Drug." Do you see that?</p> <p>18 A. Oh, yes.</p> <p>19 Q. What does that mean?</p> <p>20 A. Much of home infusion billing to commercial</p> <p>21 insurance was, and still is, billed on a per day or</p> <p>22 per diem basis. Per diem as we call it. This</p> <p>23 contract redacted, though, had rates per day, per</p> <p>24 diem, for providing a therapy. Some contracts would</p> <p>25 have -- sometimes a patient would have more than one</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. Okay. And that would be billed to the payer</p> <p>2 at AWP?</p> <p>3 A. Yes.</p> <p>4 Q. Would a -- would it --</p> <p>5 A. Well, it would be paid by the payer at AWP.</p> <p>6 Q. Okay. What does that mean?</p> <p>7 A. I explained earlier you may sometimes bill at</p> <p>8 list charge -- list price or you may bill at the</p> <p>9 contracted price. You could bill it either way.</p> <p>10 Q. Okay. And the contracted price means the</p> <p>11 contract -- the price between the third-party payer</p> <p>12 and the provider?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 A. Or that -- well, this is a contract, so, yes.</p> <p>16 Q. And will there ever be an instance when for</p> <p>17 Medicaid or Medicare reimbursement purposes, the fee</p> <p>18 schedule would be per day plus AWP?</p> <p>19 MS. FUMERTON: Objection, form.</p> <p>20 A. At that time?</p> <p>21 Q. (BY MS. ST. PETER-GRIFFITH) At any time.</p> <p>22 A. You mean now?</p> <p>23 Q. Well, at any time that -- that you were</p> <p>24 involved with Home Infusion, Abbott Hospital Products</p> <p>25 Division.</p>

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<p>1 MS. FUMERTON: Objection, form.</p> <p>2 A. For Medicare there would never have been a</p> <p>3 per diem billing to incorporate charges for all of</p> <p>4 your supplies, pumps, or whatever, and services, which</p> <p>5 is how this is done for commercial insurance. No,</p> <p>6 that would not have occurred for Medicare.</p> <p>7 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Why not?</p> <p>8 A. For -- pardon me?</p> <p>9 Q. Why not for Medicare?</p> <p>10 A. Because you had to bill the way the</p> <p>11 government through their contractor specify that you</p> <p>12 bill, and that was not the methodology for billing.</p> <p>13 Q. Okay.</p> <p>14 A. And still is not.</p> <p>15 For Medicaids, as I said earlier,</p> <p>16 there's 50 states out there. To the best of my</p> <p>17 recollection at that time none of them were billed on</p> <p>18 a per diem basis or paid on a per diem basis -- paying</p> <p>19 on a per diem basis.</p> <p>20 Q. Okay. If you could flip to 2223.</p> <p>21 A. Oh, we are moving on.</p> <p>22 Q. Yeah.</p> <p>23 A. Maybe I should put the clip back where it</p> <p>24 was, huh? It's paper-clipped.</p> <p>25 (Witness reviewing document). Okay. I</p>	<p>1 compound, maybe more than that. But you may have --</p> <p>2 you may have a -- you know, what I had called earlier</p> <p>3 the primary drug of the therapy, that could be in</p> <p>4 powder form. The pharmacist or the pharmacy will --</p> <p>5 would have to typically dilute that with sterile</p> <p>6 water. That's often done in that way. And then they</p> <p>7 would take that mixture and compound that into a</p> <p>8 diluent, such as D5W. So in that case there would be</p> <p>9 three drugs. This means that drugs which may be added</p> <p>10 to hydration diluent and are -- let me read this</p> <p>11 again.</p> <p>12 Okay. This actually is talking about</p> <p>13 hydration, which is a therapy. Patients need fluids.</p> <p>14 It's not really a primary, like infection fighting or</p> <p>15 cancer fighting drug in a fluid, it's simply that they</p> <p>16 are -- do not have the -- as I understand this, and</p> <p>17 I'm not a pharmacist, but I understand this, they</p> <p>18 don't have the proper equilibrium of what are called</p> <p>19 electrolytes in their body so they need hydration.</p> <p>20 And this is saying that drugs can be added to whatever</p> <p>21 the core, you know, the basic diluent is, which could</p> <p>22 be dextrose, if I understand it, maybe others.</p> <p>23 Certain drugs or minerals, or whatever,</p> <p>24 could be added to that as part of getting their</p> <p>25 electrolyte balance back where it needs to be and they</p>
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<p>1 am there.</p> <p>2 Q. Okay. Does it look like this (indicating)</p> <p>3 22 --</p> <p>4 A. No yellow mark on this.</p> <p>5 Q. Okay. Well, sir, if you could -- and if you</p> <p>6 need to refer to the earlier pages, can you tell us</p> <p>7 what this document is?</p> <p>8 A. I believe this is a document that I used. I</p> <p>9 may have written it for training a client that we had</p> <p>10 sold the CHIP system to in the latter years. They</p> <p>11 just bought the system. They didn't have any other</p> <p>12 services other than, you know, our supporting them on</p> <p>13 learning how to use and implement the CHIP system and</p> <p>14 I actually was the product -- I was the key person at</p> <p>15 Abbott to help out with this client and I think this</p> <p>16 is a document that was used for training them.</p> <p>17 Q. Okay.</p> <p>18 A. Uh-huh.</p> <p>19 Q. It says, "Drugs which may be added to</p> <p>20 hydration diluent ... are sometimes chargeable at AWP</p> <p>21 per contracts." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What does that mean?</p> <p>24 A. When you do a compound in home infusion, you</p> <p>25 are using, by definition, at least two drugs to do the</p>	<p>1 can be billed. They are chargeable. They can be paid</p> <p>2 for via AWP per contracts that would be between a</p> <p>3 payer and a provider. That's what this is referring</p> <p>4 to.</p> <p>5 Q. Okay. When you say a provider, would that</p> <p>6 provider include Medicaid or Medicare?</p> <p>7 MS. FUMERTON: Objection, form.</p> <p>8 A. Medicare for home diffusion does not pay for</p> <p>9 hydration.</p> <p>10 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>11 A. Medicaid would. Per contracts would not</p> <p>12 relate to Medicaid. That's the term for commercial</p> <p>13 insurance.</p> <p>14 And, I'm sorry, did I answer the</p> <p>15 question?</p> <p>16 Q. Yeah, I think you did.</p> <p>17 A. Okay. That's my wife.</p> <p>18 Q. Who's your wife, sir?</p> <p>19 A. I did write this. I did write this.</p> <p>20 Q. Okay.</p> <p>21 A. "Prevents vomiting per nurse Sue." I asked</p> <p>22 her what this was for and she knew.</p> <p>23 Q. So your wife --</p> <p>24 A. That's what I think this is.</p> <p>25 Q. Your wife is a nurse?</p>

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<p style="text-align: right;">Page 206</p> <p>1 A. She is a nurse.</p> <p>2 MS. ST. PETER-GRIFFITH: Is now a good</p> <p>3 time for --</p> <p>4 A. It almost makes me think I didn't, actually,</p> <p>5 give this to a client. They may have been notes to</p> <p>6 myself, but it's too long ago.</p> <p>7 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>8 A. Okay.</p> <p>9 MS. ST. PETER-GRIFFITH: Is now a good</p> <p>10 time to take a break?</p> <p>11 MR. STETLER: Whenever you would like.</p> <p>12 MS. ST. PETER-GRIFFITH: Okay. Why</p> <p>13 don't we take -- Mr. Rodman, is now a good time for</p> <p>14 you to take a break?</p> <p>15 THE WITNESS: Sure.</p> <p>16 THE VIDEOGRAPHER: We are off the record</p> <p>17 at 2:42 p.m. with the end of Tape Number 4.</p> <p>18 (Recess from 2:42 to 2:56)</p> <p>19 THE VIDEOGRAPHER: Please stand by. We</p> <p>20 are back on the record at 2:56 p.m. with the beginning</p> <p>21 of Tape Number 5.</p> <p>22 Q. (BY MS. ST. PETER-GRIFFITH) Sir, and I'm not</p> <p>23 sure if it's part of this folder or not, but the next</p> <p>24 document I would like to discuss with you is 02293.</p> <p>25 A. It's not in this packet.</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) 360. 2360.</p> <p>2 A. I'm sorry, repeat that.</p> <p>3 Q. The first -- the first page is -- I need</p> <p>4 is --</p> <p>5 MS. ST. PETER-GRIFFITH: What is that,</p> <p>6 Tara?</p> <p>7 MS. FUMERTON: Sorry.</p> <p>8 MS. ST. PETER-GRIFFITH: That's okay.</p> <p>9 2293.</p> <p>10 A. That's in here.</p> <p>11 Q. (BY MS. ST. PETER-GRIFFITH) Okay. And then</p> <p>12 I'm going to be discussing various pages through 2356.</p> <p>13 A. It only goes to 2312.</p> <p>14 Q. Okay. Well, we'll worry about the other --</p> <p>15 we are putting Mr. Stetler to work here today.</p> <p>16 MS. ST. PETER-GRIFFITH: Dave, is it all</p> <p>17 right while you're getting --</p> <p>18 MR. STETLER: (Indicating).</p> <p>19 MS. ST. PETER-GRIFFITH: Okay.</p> <p>20 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you can</p> <p>21 look at 2293. And can you tell me, what is this</p> <p>22 document that you're looking at? I mean, can you</p> <p>23 identify the first and the last page?</p> <p>24 A. Well, I have to look at the beginning pages</p> <p>25 first before I get there --</p>
<p style="text-align: right;">Page 207</p> <p>1 MS. ST. PETER-GRIFFITH: Can we get</p> <p>2 that?</p> <p>3 MR. STETLER: 02293?</p> <p>4 MS. ST. PETER-GRIFFITH: Yeah. And,</p> <p>5 Dave, we are going to need through like 2360.</p> <p>6 THE WITNESS: Do you think we're done</p> <p>7 with this that I can give this back to Dave?</p> <p>8 MS. ST. PETER-GRIFFITH: Yes.</p> <p>9 MR. STETLER: Does it say "Introduction</p> <p>10 and Summary," is that what you're looking at?</p> <p>11 MS. ST. PETER-GRIFFITH: "Information</p> <p>12 Systems Overview."</p> <p>13 MS. FUMERTON: Do you mind if I take a</p> <p>14 look it at --</p> <p>15 MS. ST. PETER-GRIFFITH: Sure. Sure.</p> <p>16 MS. FUMERTON: -- while we're searching</p> <p>17 for it?</p> <p>18 MS. ST. PETER-GRIFFITH: Yeah.</p> <p>19 MR. STETLER: I see it. It's part of a</p> <p>20 little bit bigger package. Do you want me to give him</p> <p>21 the whole package?</p> <p>22 MS. ST. PETER-GRIFFITH: Yes, please.</p> <p>23 Does it go through 360?</p> <p>24 MR. STETLER: He can tell you.</p> <p>25 THE WITNESS: I'm sorry, what numbers?</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Sure. That's fine.</p> <p>2 A. -- because I'm not sure I'm going to</p> <p>3 understand what this is, so ...</p> <p>4 Q. Okay. Take your time.</p> <p>5 A. (Witness reviewing document). Okay. And</p> <p>6 what page, 2293?</p> <p>7 Q. Yes.</p> <p>8 A. Okay. Well, this says -- it is entitled here</p> <p>9 as the "Request For Proposal For Software Services,"</p> <p>10 which I guess means the CHIP system. I mean, it does</p> <p>11 mean the CHIP system.</p> <p>12 Q. Okay. And this is for the --</p> <p>13 A. And this is the description of the CHIP</p> <p>14 system on this page, essentially.</p> <p>15 Q. Where it says, "Section 2 - Information</p> <p>16 Systems"?</p> <p>17 A. Yes.</p> <p>18 Q. And is this -- was this an RFP for Michigan</p> <p>19 Home Care Services?</p> <p>20 A. It is my belief, actually, that this is an</p> <p>21 RFP because the HomeMed, which is part of the</p> <p>22 University of Michigan, was considering purchasing a</p> <p>23 computer system.</p> <p>24 Q. Okay. And if you could look at 2293.</p> <p>25 A. Yes.</p>

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<p>1 Q. You indicated earlier it describes the CHIP 2 system? 3 A. It describes -- it appears to describe the -- 4 essentially the functionality of the CHIP system, at 5 least as of the time this proposal was written. 6 Q. Okay. About one, two, three, four, five, six 7 bullet points down where it says in the middle of the 8 page, "CHIP also provides" -- "provides the following 9 specific," do you see that? 10 A. Yes. 11 Q. It says "First Data Bank drug interaction 12 program" -- 13 A. Yes. 14 Q. -- integrated" -- what does that mean? 15 A. I had mentioned earlier that these drug 16 compendiums provided not only just pricing, but other 17 drug data. They -- they -- they provide -- they can, 18 at least, provide data that allows a clinical 19 pharmacist or a computer system that has some 20 automation in it to identify that a -- one drug should 21 not be administered to a patient with another drug 22 because there may be an adverse effect. And that's 23 called drug -- drug interaction. And now that I see 24 this, my recollection is that we had those features in 25 the CHIP system to help the pharmacist to avoid those</p>	<p>1 A. 02355, 02315, so it must be in here, huh? 2 02333. Okay. Okay. I'm ready. 3 Q. Okay. Sir, does it say -- at the top it 4 should say "Sutter." 5 A. Yes. 6 Q. Okay. What is this document? 7 A. Well, I need to put this in the context of 8 what is in these -- 9 Q. Sure. Let's -- 10 A. -- materials -- 11 Q. Why don't we do that. 12 A. -- for the most part. 13 Q. That's fine. 14 A. Okay. 15 Q. Why don't we start with the first page number 16 and if you could you just give the -- 17 A. Yeah. 18 Q. -- the Bates range. 19 A. I hope -- even before I do that, I need to 20 look at this a little more. I'm sorry. 21 Q. Sure. 22 MS. FUMERTON: I suppose this is as good 23 a time as any. Just on the record I want to designate 24 the transcript as highly confidential to the extent we 25 are looking at materials that are highly confidential,</p>
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<p>1 types of problems and that data was obtained from 2 First DataBank. 3 Q. Okay. If you could look down three bullet 4 points. It says, "Integration with Redbook AWP for 5 automated pricing." 6 A. Yes. 7 Q. Do you see that? 8 A. Yes. 9 Q. What does that mean? 10 A. It's exactly as we discussed earlier, that -- 11 Q. Okay. 12 A. -- that was obtained from Redbook from -- for 13 those AWP's. 14 Q. Sir, the next document I would like you to 15 look at is numbered 02333 and I think that might be 16 contained -- 17 A. No, that's not in this. 18 Q. Okay. If you could look at that next book 19 that Mr. Stetler has -- 20 A. So -- okay. 21 MS. FUMERTON: Can I take a glance? 22 MS. ST. PETER-GRIFFITH: Sure. Sure. 23 MR. STETLER: Yeah, we are not going to 24 get a laptop. It's on -- they're both on their way to 25 San Francisco I just learned.</p>	<p>1 discussing them. 2 A. Okay. For the most part these are -- these 3 appear to be materials, working materials, used by the 4 Contract Marketing department for -- for -- for the 5 maintenance of that item file that we've been talking 6 about. I actually see one note that's -- I recognize 7 my handwriting. I'm not sure why that's stuck in 8 here. 9 Q. (BY MS. ST. PETER-GRIFFITH) What page do you 10 recognize your handwriting on? I don't mean to -- 11 A. 2316. 12 Q. Okay. 13 A. I mean, this is actually just a set of notes 14 for something. 15 But for the most part these were not 16 created by me. I had very little, if any, 17 responsibility for them and I'm not even sure when I 18 came into possession of this book. And so, in 19 general, that's what this is. 20 Q. Okay. 21 A. Now, which page were you asking about? 22 Q. 2233 and 2234. I'm sorry. 2333 and 2334. 23 A. Okay. I'm there. 24 Q. Sir, do you recognize this? 25 A. Not specifically.</p>

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<p style="text-align: right;">Page 214</p> <p>1 Q. What is Abbot/CAITS pricing schedule?</p> <p>2 A. I don't know what CAITS stands for.</p> <p>3 Q. Okay. Where it says, compounding multidose</p> <p>4 bags, do you see that? At the top.</p> <p>5 A. Yes.</p> <p>6 Q. Do you recognize that methodology for</p> <p>7 calculating pricing?</p> <p>8 A. (Witness reviewing document). You know, it's</p> <p>9 pretty hazy. It -- I mean, it certainly had to do</p> <p>10 with the pricing of claims and I'm having difficulty</p> <p>11 understanding the details, frankly.</p> <p>12 Q. Okay. Is that true for the rest of the</p> <p>13 compounding information on this page?</p> <p>14 A. (Witness reviewing document). Yes, it is</p> <p>15 true.</p> <p>16 Q. Okay. If we could move to, then, Page 2353</p> <p>17 through 2354.</p> <p>18 A. Okay. Okay.</p> <p>19 Q. Sir, do you recognize this document?</p> <p>20 A. Not specifically.</p> <p>21 Q. And Shellie Bronson at the top is the</p> <p>22 author --</p> <p>23 A. Yes.</p> <p>24 Q. -- do you see that? And what position did</p> <p>25 she hold on 8/13/97?</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. What does that mean?</p> <p>2 A. You know, I mean, other than what you can</p> <p>3 read, which is obvious, AWP times 1.4 and add \$25, I</p> <p>4 don't really have more detail that I can give you on</p> <p>5 that that I recall.</p> <p>6 Q. Well, what does Category 56 mean? Does that</p> <p>7 mean anything to you?</p> <p>8 A. Not really. It -- it probably was a</p> <p>9 categorization in the CHIP system of how items could</p> <p>10 be put into categories. We talked about one of them</p> <p>11 before. What -- what was that called, product group,</p> <p>12 something like that. I think there -- my recollection</p> <p>13 is there was another category. What 56 particularly</p> <p>14 meant, I don't know.</p> <p>15 Q. Okay. Well, what -- how do you interpret</p> <p>16 upcharge the most expensive AWP times 1.4 percent and</p> <p>17 add \$25 as a compounding fee?</p> <p>18 A. Right now I'm perplexed as to what it meant</p> <p>19 by "most expensive AWP."</p> <p>20 Q. Okay.</p> <p>21 A. Maybe with some refresher somewhere else it</p> <p>22 might come to me --</p> <p>23 Q. Well --</p> <p>24 A. -- that I could figure it out. But I don't</p> <p>25 know what that meant.</p>
<p style="text-align: right;">Page 215</p> <p>1 A. At that time this memo makes me recall that</p> <p>2 she was also in the Contract Marketing department.</p> <p>3 Q. So she wore two hats?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 A. No. She had moved on from being</p> <p>7 reimbursement training supervisor -- or reimbursement</p> <p>8 trainer to join the Contract Marketing department, as</p> <p>9 it says here, as a managed care specialist.</p> <p>10 Q. Okay.</p> <p>11 A. Okay.</p> <p>12 Q. Have you seen this document before?</p> <p>13 A. I have no specific recollection of it.</p> <p>14 Q. Okay. Do you see where it says, "Re-cap of</p> <p>15 Pricing Meeting 8/13/97"?</p> <p>16 A. I do.</p> <p>17 Q. Did you participate in any pricing meeting?</p> <p>18 A. None that I can recall.</p> <p>19 Q. If you look under Item 2 it says,</p> <p>20 "Category 56 (compounded drugs)"?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And then it says, "upcharge the most</p> <p>23 expensive AWP x 1.4 and add a \$25.00 compounding fee,"</p> <p>24 do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. Could it mean most expensive AWP as reported</p> <p>2 between the three different pricing compendia?</p> <p>3 A. I would doubt that because the CHIP system</p> <p>4 only used the Redbook pricing.</p> <p>5 Q. Okay. This -- does this appear to be a</p> <p>6 formula for setting list price?</p> <p>7 MS. FUMERTON: Objection, form.</p> <p>8 A. Well, it doesn't really say that.</p> <p>9 Q. (BY MS. ST. PETER-GRIFFITH) Do you see at</p> <p>10 the end of the memo it says, "Memos for each of the</p> <p>11 above pricing methodologies will be completed and</p> <p>12 placed in the pricing manual"?</p> <p>13 A. Yeah. You know, you can draw that conclusion</p> <p>14 and I may be able to, also, but I have no specific</p> <p>15 knowledge of it.</p> <p>16 Q. Okay. The next page I would like to discuss</p> <p>17 with you is 2374. Is that part of the grouping that</p> <p>18 you have there?</p> <p>19 A. Okay.</p> <p>20 Q. And, sir, do you see where it says,</p> <p>21 "Established pricing parameters"?</p> <p>22 A. Uh-huh.</p> <p>23 Q. If you could just take a look at that</p> <p>24 document.</p> <p>25 A. (Witness reviewing document).</p>

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Page 218	Page 220
<p>1 MS. FUMERTON: Let's see. I'm not 2 having much luck trying to find something in here. 3 MR. STETLER: You're not? 4 MS. FUMERTON: Well, it's just not -- 5 MS. ST. PETER-GRIFFITH: It's kind of 6 slow? 7 MS. FUMERTON: It's not slow, it's just 8 not in the order you -- it's not in order. 9 MS. MOORE: Box 2 has the first 10 documents and Box 1 has the higher numbers. I figured 11 that much out. 12 MS. FUMERTON: That would -- thank you. 13 I'm looking at Box 1. It should be there. 14 MS. MOORE: The opposite of what you ... 15 A. (Witness reviewing document). I'm ready, if 16 you are. 17 Q. (BY MS. ST. PETER-GRIFFITH) Oh, okay. Sir, 18 do you recognize this document? 19 A. No. 20 Q. Okay. It says at the bottom -- do you see at 21 the very bottom on the left-hand side, 22 Procedure/ITMPR.doc? 23 A. Yes. 24 Q. Do you know what that is? 25 A. That appears to be a file name of where it</p>	<p>1 so -- so I did keep this, but I have no detailed 2 knowledge at all of this and, frankly, this is 3 probably the first time I ever looked at it, most of 4 this stuff. 5 Q. Okay. We can move on, then, to Page 2490. 6 A. Uh-huh. Okay. 7 Q. Okay. Do you see that? And is this a 8 memorandum? 9 A. I do. 10 Q. From Lynn Leone? 11 A. Yes. 12 Q. Whose title is identified as pricing 13 specialist? 14 A. Yes. 15 Q. What -- what part of Home Infusion would 16 Ms. Leone have been working in at that point in time? 17 A. Contract Marketing. 18 Q. Okay. And this is to all reimbursement 19 specialists and clerks? 20 A. Yes. 21 Q. And then you are listed as a cc? 22 A. Yes. 23 Q. Dave Brincks is also listed and Ginny 24 Tobiason as well? 25 A. Yes.</p>
Page 219	Page 221
<p>1 was kept. You know, what it was called when it was 2 kept on somebody's computer. 3 Q. Now -- 4 A. It was in a doc setting for probably MS Word 5 document. 6 Q. Okay. But this is -- this manual that you're 7 looking at, which this -- which this document that we 8 are talking about appears to be contained in, is from 9 Contract Marketing Home Infusion? 10 A. Yes. 11 Q. Okay. And it says, "Established Pricing 12 Parameters" at the top. Do you see that? 13 A. I do. 14 Q. And "Draft." 15 A. I see that. 16 Q. Do you know whether these are pricing 17 parameters utilized by the Contract Marketing group in 18 Home Infusion? 19 A. I don't specifically know. This particular 20 book was one that I had, to the best of my knowledge, 21 never used. I'm not sure why there's this one sheet 22 in here. And I -- as I had explained way upfront, 23 that I thought that at some point potentially if I 24 ended up doing consulting, that some of this material 25 that was available might be useful to me some day</p>	<p>1 Q. Do you recall this document? 2 A. No. 3 Q. Do you have any doubt that you received this 4 document? 5 A. I was on board as a reimbursement supervisor 6 as of that time. My name is there, so I probably did. 7 Q. Okay. Sir, what does this document 8 reference? 9 A. Case management. 10 Q. Okay. And what is that? 11 A. Well, I have to read this document, which I 12 haven't done. 13 Q. Oh, go right ahead. 14 A. I had explained to you what we call case 15 management earlier. 16 Q. Okay. 17 A. Okay. 18 Q. Why don't you take your time and read the 19 document. 20 A. Okay. (Witness reviewing document). 21 MS. FUMERTON: Can I see -- we're giving 22 up on this. 23 MS. ST. PETER-GRIFFITH: Okay. 24 (Discussion off the record) 25 A. Well, okay. So the question is what is this?</p>

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<p style="text-align: right;">Page 222</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) Yes.</p> <p>2 A. Well, actually, it's -- as it's written in</p> <p>3 the very first sentence, it's some case management and</p> <p>4 pricing procedures is what it is and there actually</p> <p>5 seem to be three different subjects on it.</p> <p>6 Q. Okay. And are those subjects familiar to</p> <p>7 you?</p> <p>8 A. Not especially.</p> <p>9 Q. Okay. Do you recall an issue associated</p> <p>10 with -- with the implementation of Phase II flexible</p> <p>11 pricing?</p> <p>12 A. The price schedule capability that I spoke</p> <p>13 about was being built in phases into the system when I</p> <p>14 came on board and they called it phases, I guess.</p> <p>15 Looking at this, it looks like Phase II had just been</p> <p>16 completed and put into the system and this is some</p> <p>17 procedure that's related to how to use the system for</p> <p>18 the entry of prices that a case manager, which in this</p> <p>19 case -- well, I mean, Lynn Leone was a case manager,</p> <p>20 would have negotiated for individual patient therapy</p> <p>21 episode into the system, so the claims would reflect</p> <p>22 that price as -- if appropriate.</p> <p>23 Q. Okay. Sir, what I would like to do next is</p> <p>24 just use my copies to go through the various manuals</p> <p>25 and make sure that we have -- we authenticate the</p>	<p style="text-align: right;">Page 224</p> <p>1 Products Division and apparently it's the entire</p> <p>2 catalog. I guess. Appears that way.</p> <p>3 Q. Okay.</p> <p>4 A. Okay.</p> <p>5 Q. Give that back to me.</p> <p>6 A. We'll get done by the end of the day.</p> <p>7 MR. STETLER: Some of these may be hard</p> <p>8 to figure out.</p> <p>9 MS. ST. PETER-GRIFFITH: That's why I</p> <p>10 want to go through this exercise now.</p> <p>11 Q. (BY MS. ST. PETER-GRIFFITH) The next is 714</p> <p>12 through 988. Sir, if you could identify this? And I</p> <p>13 believe Mr. Stetler might hold up --</p> <p>14 MR. STETLER: Right.</p> <p>15 Q. (BY MS. ST. PETER-GRIFFITH) -- a copy.</p> <p>16 MR. STETLER: I'll hold them if I can</p> <p>17 find them on time because they're easier to recognize</p> <p>18 this way.</p> <p>19 A. Why don't you give me that one.</p> <p>20 Q. (BY MS. ST. PETER-GRIFFITH) Okay. That's</p> <p>21 fine.</p> <p>22 A. Okay.</p> <p>23 Q. And, sir, what is this document?</p> <p>24 A. I believe this would be a document that would</p> <p>25 have been used in the contract manage -- I'm sorry,</p>
<p style="text-align: right;">Page 223</p> <p>1 manuals. I think it just would be easier to do it</p> <p>2 this way.</p> <p>3 A. That's okay with me so far.</p> <p>4 MR. STETLER: (Nodded head</p> <p>5 affirmatively).</p> <p>6 Q. (BY MS. ST. PETER-GRIFFITH) If you could --</p> <p>7 THE WITNESS: If it's okay with you.</p> <p>8 Q. (BY MS. ST. PETER-GRIFFITH) -- look at --</p> <p>9 MR. STETLER: Okay with me.</p> <p>10 THE WITNESS: Especially if it -- we get</p> <p>11 out of here sooner.</p> <p>12 MR. STETLER: Well --</p> <p>13 Q. (BY MS. ST. PETER-GRIFFITH) Well, I just</p> <p>14 want to make sure we get this done before the end of</p> <p>15 the day.</p> <p>16 A. Hurray. I'll go for that.</p> <p>17 Q. If we could look at BR 212 through 532. And</p> <p>18 why don't I just pass that to counsel.</p> <p>19 MS. FUMERTON: Sure. And I'll pass it</p> <p>20 down.</p> <p>21 A. Okay.</p> <p>22 Q. (BY MS. ST. PETER-GRIFFITH) And, sir, can</p> <p>23 you identify that document?</p> <p>24 A. Well, the first page is 2001 Catalog. This</p> <p>25 would be for -- it doesn't show, but it's the Hospital</p>	<p style="text-align: right;">Page 225</p> <p>1 the Home Infusion Services Contract Marketing</p> <p>2 department for doing these individual patient case</p> <p>3 management price negotiations that we have been</p> <p>4 talking about.</p> <p>5 Q. And would you utilize this document?</p> <p>6 A. No.</p> <p>7 MS. ST. PETER-GRIFFITH: Okay. If you</p> <p>8 could get the next binder, Mr. Stetler. Why don't we</p> <p>9 just do it that way.</p> <p>10 MR. STETLER: Yeah. You know, in</p> <p>11 between there are certain things that are clipped</p> <p>12 together. We are skipping those, I assume?</p> <p>13 MS. ST. PETER-GRIFFITH: Why don't we</p> <p>14 skip those for now or set them aside. I would just</p> <p>15 like to get through the binders right now.</p> <p>16 MR. STETLER: Yeah. Okay. This one</p> <p>17 begins 1062.</p> <p>18 Q. (BY MS. ST. PETER-GRIFFITH) If you could</p> <p>19 just -- sir, if I could ask you to read the first and</p> <p>20 last Bates numbers for this.</p> <p>21 A. 1062 through 1152.</p> <p>22 Q. And what is that document?</p> <p>23 A. Well, it says "Sample Contracts From Contract</p> <p>24 Marketing June 1999."</p> <p>25 Q. And do you recognize this document?</p>

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1 A. Not specifically.  
 2 Q. With regard to the case management binder  
 3 that you looked at before and this document, do you  
 4 know why you took it with you?  
 5 A. As I had explained earlier, I felt that -- I  
 6 wasn't really sure if I was going to be doing  
 7 consulting or what type, but I thought some day  
 8 potentially it might be a good reference for me to use  
 9 for professional consulting occasions, which never, in  
 10 fact, happened.  
 11 Q. Was this a document that you maintained in  
 12 your office at Abbott?  
 13 A. I don't think so.  
 14 Q. Okay. What's the date on that? Is there a  
 15 date?  
 16 A. June 1999.  
 17 Q. Okay.  
 18 A. June 1999.  
 19 Q. Do you want to move on to the next?  
 20 MR. STETLER: Here are the next two in  
 21 order.  
 22 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you  
 23 could give me the first and last Bates number of that  
 24 particular binder and describe what it is.  
 25 A. The first number is 1153, the last number is

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1 1216. This says, "Developing a Sales and Marketing  
 2 Plan."  
 3 Q. Did Abbott Home Infusion have sales and  
 4 marketing plans?  
 5 A. I guess we would have to define what that  
 6 means.  
 7 Q. Okay. What -- what -- how do you define a  
 8 marketing plan?  
 9 A. Well, I guess in a traditional sense as an  
 10 MBA from a long time ago I would define it as a plan  
 11 for the development of the features of a product, how  
 12 you were going to market it, to whom, through what  
 13 distribution channel, at what price and that would be  
 14 a marketing plan.  
 15 Q. Okay. Do you know whether Abbott Home  
 16 Infusion had marketing plans like you just described?  
 17 A. I don't have any specific recollection of  
 18 that.  
 19 Q. Sir, this particular document that you're  
 20 looking -- that's in front of you now, is this a  
 21 document that you utilized in your work with the  
 22 Abbott Home Infusion business unit?  
 23 A. That's why I need -- I need to look at this  
 24 document --  
 25 Q. Sure.

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1 A. -- to understand that. (Witness reviewing  
 2 document). This, I believe, is a document that was  
 3 prepared by the -- or used by, I don't know who  
 4 prepared it, used by the Abbott Home Infusion Services  
 5 sales organization to assist in training Abbott's  
 6 clients on how to basically set up what was called a  
 7 marketing plan for their home infusion services  
 8 business units. That's what I think this is.  
 9 Q. Okay. And is it a document that you  
 10 maintained in your office when you were with Abbott?  
 11 A. I don't recall.  
 12 Q. Okay.  
 13 A. It was not a document that I used actively.  
 14 Q. Okay.  
 15 A. I could have had a copy in my office.  
 16 Q. Do you know who developed it or drafted it?  
 17 A. No, not specifically I don't.  
 18 Q. Okay. If you will move on to the next  
 19 document. And if you will give the first and last  
 20 number of the Bates range.  
 21 A. Sure. 1217 through 1406.  
 22 Q. And what is this document?  
 23 A. Well, it says, "Guide to Sales Training &  
 24 Development."  
 25 Q. Okay. Do you recognize this document?

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1 A. Not offhand.  
 2 Q. Is it a document you maintained in your  
 3 office?  
 4 A. I have no specific recollection.  
 5 Q. Do you know whether you used it at all?  
 6 A. I have no specific recollection of that.  
 7 Q. Do you know what it was for?  
 8 A. If I take a look at the first page --  
 9 Q. Sure.  
 10 A. -- I may be able to tell you.  
 11 Q. Take your time.  
 12 A. (Witness reviewing document). You know,  
 13 it -- I can just, in effect, recite back what it says  
 14 in this first one and that's all that I have of -- any  
 15 real knowledge of, at least at this point in terms of  
 16 recollection, which says it was "developed as a tool  
 17 for Sales Management to utilize in structuring a  
 18 personalized orientation and training program for new  
 19 field sales personnel," which would be referring to  
 20 the sales personnel in Abbott Home Infusion Services.  
 21 "It contains ... primary components necessary to  
 22 adequately develop field sales employees to achieve  
 23 maximum potential in their sales career in the Home  
 24 Infusion Services business unit." So it was some sort  
 25 of a training and/or education tool for the Home

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<p style="text-align: right;">Page 230</p> <p>1 Infusion Services sales staff --</p> <p>2 Q. Okay.</p> <p>3 A. -- is what I would conclude. Okay?</p> <p>4 Q. And, sir, what is -- what is this document,</p> <p>5 if you could give the Bates range and describe the</p> <p>6 document?</p> <p>7 A. Sure. It's 1407 through 0162, which I am now</p> <p>8 seeing there are some not bound stuff here.</p> <p>9 Q. Sir, what is this document or what are these</p> <p>10 documents?</p> <p>11 A. Well, at least for the portion of it in the</p> <p>12 binders. This was -- I had mentioned earlier that one</p> <p>13 of my responsibilities as a reimbursement supervisor</p> <p>14 was to -- you know, when we -- when we implemented a</p> <p>15 new Home Infusion Services client, a home infusion</p> <p>16 business, was to get them started in the use of -- in</p> <p>17 the aspects of reimbursement where Abbott, as a</p> <p>18 billing service, would be performing those functions</p> <p>19 and this was a document that would be used as part of</p> <p>20 getting them started. So there are some forms to fill</p> <p>21 out and I think some of this would be done -- I</p> <p>22 believe some of this would be done in -- you know,</p> <p>23 perhaps through some meetings with clients on the</p> <p>24 upfront to work out some of these things, at least</p> <p>25 some of these forms. That's essentially what, at</p>	<p style="text-align: right;">Page 232</p> <p>1 I believe, the client would sign it to sign off,</p> <p>2 because ultimately it was their business and their</p> <p>3 responsibility.</p> <p>4 Q. And what is the Bates range on that?</p> <p>5 A. I'm sorry?</p> <p>6 Q. What's the numbers at the bottom, what's the</p> <p>7 range of numbers for that particular document you are</p> <p>8 looking at?</p> <p>9 MS. NESBITT: I believe he said 15 --</p> <p>10 A. Show me what you're looking at. I see up on</p> <p>11 the --</p> <p>12 MR. STETLER: You read them before.</p> <p>13 A. I see up here (indicating).</p> <p>14 MS. ST. PETER-GRIFFITH: Oh, he did?</p> <p>15 MS. NESBITT: Yeah.</p> <p>16 MR. STETLER: We thought so.</p> <p>17 MS. ST. PETER-GRIFFITH: 1506. Okay.</p> <p>18 I'm sorry.</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) If we can move</p> <p>20 on to the next grouping of documents. At the back of</p> <p>21 that binder, yes.</p> <p>22 A. Okay.</p> <p>23 Q. And what's the range of those loose</p> <p>24 documents?</p> <p>25 A. Well, the first one is 1521.</p>
<p style="text-align: right;">Page 231</p> <p>1 least, the bound portion of this document is.</p> <p>2 Q. Would that be -- would the bound portion of</p> <p>3 that document be something that you utilized in</p> <p>4 your -- in your capacity in the reimbursement</p> <p>5 department?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. Either my -- either myself personally or</p> <p>9 through subordinates.</p> <p>10 Q. Did you draft any portion of that document?</p> <p>11 A. I would have to look at it and recall to see,</p> <p>12 but I cannot answer that, no.</p> <p>13 Q. Okay. Sir, in the back portion, the loose</p> <p>14 pages, can you identify those?</p> <p>15 A. Okay. This first stapled document here</p> <p>16 entitled "Case Management Negotiation Parameters" from</p> <p>17 0 -- from 1506 through 1520, is a document that I</p> <p>18 believe would have been prepared by the Contract</p> <p>19 Marketing department within Home Infusion Services,</p> <p>20 that -- there's a place for a signature on it. My</p> <p>21 recollection is that they would be working with the</p> <p>22 clients to set parameters on how to do these price</p> <p>23 negotiations on these individual patient cases. This</p> <p>24 document was used as basically a tool for</p> <p>25 communications of what those parameters were and also,</p>	<p style="text-align: right;">Page 233</p> <p>1 Q. Okay. And what is that?</p> <p>2 A. This is a list of key contacts in the Abbott</p> <p>3 Home Infusion organization that had responsibilities</p> <p>4 in reimbursement and those case management</p> <p>5 negotiations in Abbott's accounting and cash</p> <p>6 application area in the systems -- the CHIP systems</p> <p>7 training and education and support area and other,</p> <p>8 with some other department heads in various areas,</p> <p>9 that was used at some point in time with a client to</p> <p>10 give to them as part of a client that we were</p> <p>11 implementing.</p> <p>12 Q. Okay. And the next documents?</p> <p>13 A. This appears to be the paper of a</p> <p>14 presentation, or at least a walk-through, that would</p> <p>15 have been used for a client to explain how Abbott's</p> <p>16 case managers perform their functions.</p> <p>17 Q. Abbott's Home Infusion case managers?</p> <p>18 A. Yes.</p> <p>19 Q. And can you give me the Bates range of that</p> <p>20 grouping of documents that you are looking at right</p> <p>21 now?</p> <p>22 A. The Bates range? Sure. 015 -- I'm sorry.</p> <p>23 Yeah. 01522 through 01545.</p> <p>24 Q. Okay. Are there any other documents within</p> <p>25 that binder that are not attached to the binder?</p>

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1 A. Yeah. This is a -- a copy of a contract with  
2 a client, the Visiting Nurses Association of  
3 Wisconsin, that had an agreement with Abbott to use  
4 the CHIP system only, as I recall, no other services,  
5 and this is the agreement that was being operated  
6 under for that purpose.

7 Q. And what is the Bates range for that  
8 document?

9 A. 1546 through 1562.

10 Q. Okay. If you'll give that grouping to  
11 Mr. Stetler and he'll -- he's putting -- giving you  
12 another one.

13 MR. STETLER: I'm getting good at this.

14 Q. (BY MS. ST. PETER-GRIFFITH) And, sir, this  
15 document that is in front of you, if you could read  
16 the Bates range and describe what it is, please.

17 A. It starts at 1563. The last page in here is  
18 1743.

19 Q. And it appears that there's some loose notes  
20 at the top.

21 A. It does.

22 Q. Okay.

23 A. It says "Account Implementation Plan."

24 Q. And what is an account implementation plan?

25 A. When I look at it, maybe I'll be able to tell

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1 you.

2 Q. Oh, sure. Okay.

3 A. This is a letter from Timothy R. Sykes on  
4 March 30th, 1995 that says, "Enclosed is an updated  
5 Account Implementation Plan Manual. This manual  
6 should be used as a resource for new account  
7 start-ups. The contents of the manual will generally  
8 need to be customized on an account by account basis  
9 prior to use." That's giving me a clue to your  
10 question.

11 In concept this manual is a superset of  
12 that earlier manual that was an implementation manual  
13 used specifically for the reimbursement services  
14 portion of implementing a new client. This appears to  
15 be a manual that was used by the Abbott implementors  
16 to work with that client on many aspects ranging from  
17 reimbursement to pharmacy services to nursing services  
18 to inventory management and other aspects of it and  
19 that's what this is.

20 Q. Okay. And would you use this document?

21 A. I really don't recall specifically using this  
22 document in my own personal responsibilities.

23 Q. Is this a document that you would have  
24 maintained in your office?

25 A. It's possible.

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1 Q. And what's the date of this manual?

2 A. March 19, '95.

3 Q. And can you describe what the loose documents  
4 are at the front portion of the manual?

5 A. Maybe.

6 Q. Okay.

7 A. Well, one of them is actually that cover  
8 letter that I just wrote -- read as to what this  
9 manual was.

10 Abbott did provide materials to the  
11 clients that clients could use for -- I just want  
12 to -- yeah. They are kind of listed here. They would  
13 be materials essentially for patients or -- or it says  
14 physician direct mailers, so that some of them would  
15 be marketing materials, promotional posters. Abbott  
16 had developed these documents that would be provided  
17 to clients that they, in turn, would provide to  
18 patients or other individuals or entities that they  
19 would deal with. And this appears to be some  
20 information on how to reorder some of those materials.  
21 That's my memory of that as to what this is.

22 Q. Okay. Go on to the next manual.

23 A. And, apparently, I was involved judging from  
24 some notes of mine at one point in trying to figure  
25 out how to get some for the client, so ...

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1 Q. Do you remember which client or do your notes  
2 reflect --

3 A. It says in here. Memorial Hospital in  
4 Colorado Springs.

5 MR. STETLER: That's next (indicating).

6 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you  
7 could just grab the Bates range for this particular --

8 A. Sure. 1744 through 2150.

9 Q. And, sir, what is this document?

10 A. Yeah. This was a user manual to assist users  
11 on how to use the portions of the CHIP system that  
12 were involved in the reimbursement called the "CHIP  
13 Reimbursement Module User's Guide."

14 Q. What's the date on it?

15 A. Well, there's not really a date listed on  
16 this cover page. There's a code that looks like it's  
17 a date of December 18, 2002. That would be a  
18 reasonable interpretation.

19 Q. Did you help --

20 A. But there's actually -- looking through here,  
21 there's a lot of different dates in here of these  
22 materials.

23 Q. Did you participate at all in drafting  
24 portions of this document?

25 A. Some memory is coming back, so you've got to

60 (Pages 234 to 237)

## FREDERICKS-CARROLL REPORTING

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<p style="text-align: right;">Page 238</p> <p>1 give me a moment here.</p> <p>2 Q. Okay. Sure. Take your time.</p> <p>3 A. The answer to your question is yes.</p> <p>4 Q. Okay. Which portions, do you know?</p> <p>5 A. Well, the only one that I know for sure is</p> <p>6 one that I just flipped that caused me to say yes.</p> <p>7 Q. Okay.</p> <p>8 A. This -- there's a section here on patient</p> <p>9 statements. I know I did that.</p> <p>10 Q. Is this -- is this a manual that you would</p> <p>11 use in your capacity as an employee of Abbott Home</p> <p>12 Infusion or thereafter when you were working with</p> <p>13 clients?</p> <p>14 A. Me personally?</p> <p>15 Q. You personally.</p> <p>16 A. I would have some use for this as -- I think</p> <p>17 that this was put together initially when I was in the</p> <p>18 position of reimbursement supervisor and then it was</p> <p>19 added to after that, it's my recollection. Therefore,</p> <p>20 I think that I would have had some use for this at</p> <p>21 that time.</p> <p>22 Q. Would this have been a document that you</p> <p>23 maintained in your office?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Why don't we move on to --</p>	<p style="text-align: right;">Page 240</p> <p>1 A. Yes, it would have been.</p> <p>2 Q. Okay. Is it fair to say that it was drafted</p> <p>3 later during your tenure with Abbott?</p> <p>4 A. That is fair to say in terms it was compiled.</p> <p>5 You know, some of the materials in here may be older.</p> <p>6 Don't know.</p> <p>7 Q. But it was compiled when you were in --</p> <p>8 working with clients who were licensing the CHIP</p> <p>9 system?</p> <p>10 A. And Abbott employees, yes. That's my</p> <p>11 recollection. In that position when I was manager of</p> <p>12 client services.</p> <p>13 Q. Okay.</p> <p>14 A. That is my recollection.</p> <p>15 Q. Okay. Could you identify the next binder,</p> <p>16 please?</p> <p>17 A. Okay. This -- the numbers are 2907 through</p> <p>18 3123.</p> <p>19 Q. And, sir, what is --</p> <p>20 A. It's entitled "Medicare Overview PEN Claims,"</p> <p>21 1995. This is another reimbursement training manual.</p> <p>22 We had seen one earlier that was the DMERC manual.</p> <p>23 This was to -- intended to be used for training of the</p> <p>24 Abbott reimbursement staff, possibly clients, also.</p> <p>25 If I didn't mention that earlier, that manual could</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Okay.</p> <p>2 Q. I might have questions for you later on --</p> <p>3 A. Put this back together.</p> <p>4 Q. -- about this manual but --</p> <p>5 A. Okay.</p> <p>6 Q. -- I just want to get all of our -- all of</p> <p>7 these manuals identified before we end today.</p> <p>8 Sir, if you could just grab the Bates</p> <p>9 range of this particular manual and describe it.</p> <p>10 A. Well, I'll just read what's here first.</p> <p>11 You've got numbers here of 2698 through 2906. It's</p> <p>12 called "CHIP Reimbursement A-Z Class Materials."</p> <p>13 Q. And what are CHIP A to Z class materials?</p> <p>14 A. Well, now you have to give me some time.</p> <p>15 Q. Sure.</p> <p>16 A. (Witness reviewing document). Okay. My</p> <p>17 recollection of this is -- I'm not saying that I wrote</p> <p>18 everything, but I think I would have compiled this</p> <p>19 document. And it was a document that I believe I used</p> <p>20 when I was in that manager client services position to</p> <p>21 teach clients and probably Abbott reimbursement staff</p> <p>22 people, also, on how to use the CHIP system for all of</p> <p>23 its reimbursement-related activities.</p> <p>24 Q. Would this have been a document that you</p> <p>25 maintained in your office?</p>	<p style="text-align: right;">Page 241</p> <p>1 have been used for clients, too, in the DMERC. On how</p> <p>2 to bill Medicare for parenteral and enteral claims in</p> <p>3 1995.</p> <p>4 Q. Okay. And there are some loose documents, it</p> <p>5 appears, in the pocket on the inside. Do you see</p> <p>6 that, sir?</p> <p>7 A. Uh-huh.</p> <p>8 Q. What's the Bates range for the -- for those</p> <p>9 loose documents? And can you review them --</p> <p>10 A. 29 -- I'm sorry.</p> <p>11 Q. Go ahead.</p> <p>12 A. 2909 through 2930.</p> <p>13 Q. And can you review them and identify them?</p> <p>14 A. Well, this is sort of a collection of</p> <p>15 different documents on different subjects, so one by</p> <p>16 one I could, if you would like.</p> <p>17 Q. Sure, if you could.</p> <p>18 A. 2909 is a document for total parenteral</p> <p>19 nutrition, or TPN, that would have been intended to be</p> <p>20 used to document information obtained upon the intake</p> <p>21 process, accepting a patient on to home infusion</p> <p>22 therapy, pertaining to why they needed TPN, as well as</p> <p>23 what the specific drug formula, drug and mineral, et</p> <p>24 cetera, formula for the TPN would be. So that's what</p> <p>25 this required TPN information form is.</p>

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<p style="text-align: right;">Page 242</p> <p>1 The required TEN information form is</p> <p>2 very similar except it's for patients that were</p> <p>3 receiving enteral nutrition therapy.</p> <p>4 Medicare at the time had a requirement</p> <p>5 to -- that the -- the -- the provider, called,</p> <p>6 actually, technically a supplier, was at the time</p> <p>7 required to notify the patient that -- in</p> <p>8 circumstances in which the patient might have some</p> <p>9 reason to believe that there would actually be</p> <p>10 coverage by the Medicare program for the patient's</p> <p>11 therapy, but there wasn't.</p> <p>12 Q. Okay.</p> <p>13 A. So the supplier was obligated to notify the</p> <p>14 patient in advance of that. It's called the waiver of</p> <p>15 liability. There's more detail than that, but perhaps</p> <p>16 that's enough for now.</p> <p>17 Q. Is that what waiver of liability means in the</p> <p>18 enteral/parenteral nutrition area?</p> <p>19 A. It did then. There's a different name for it</p> <p>20 now.</p> <p>21 Q. Okay. What's the name for it now?</p> <p>22 A. Advance beneficiary notice or ABN.</p> <p>23 This one, from the desk of Virginia</p> <p>24 Tobiason, dated February 16, 1995. The numbers are</p> <p>25 2915 through 2926.</p>	<p style="text-align: right;">Page 244</p> <p>1 Do you see where it says Stark referral?</p> <p>2 A. I do.</p> <p>3 Q. Do you know what that reference is?</p> <p>4 A. At a high level it references a law commonly</p> <p>5 called the Stark law --</p> <p>6 Q. And --</p> <p>7 A. -- that had to do with what types of</p> <p>8 relationships physicians could have with providers of</p> <p>9 health services that they might be referring patients</p> <p>10 to and what they couldn't do.</p> <p>11 Q. Is that commonly referred to as Stark?</p> <p>12 A. That's commonly referred to as Stark, yes.</p> <p>13 Q. Okay. Sir, who is Stark?</p> <p>14 A. Representative Pete Stark in California.</p> <p>15 Q. Are you aware of the fact that Representative</p> <p>16 Pete Stark in California sent a letter to Miles White?</p> <p>17 A. Really? No.</p> <p>18 Q. Okay.</p> <p>19 MR. STETLER: You didn't get a copy?</p> <p>20 THE WITNESS: I would like to see that.</p> <p>21 Q. (BY MS. ST. PETER-GRIFFITH) Had you -- did</p> <p>22 you hear anything about Pete Stark writing --</p> <p>23 writing -- writing to Miles White --</p> <p>24 A. No.</p> <p>25 Q. -- at any time?</p>
<p style="text-align: right;">Page 243</p> <p>1 Q. And what is that document?</p> <p>2 A. It's called "Reimbursement Update."</p> <p>3 MS. NESBITT: Can you say the date again</p> <p>4 on that?</p> <p>5 THE WITNESS: I'm sorry?</p> <p>6 MS. NESBITT: Can you say the date on</p> <p>7 that again?</p> <p>8 THE WITNESS: The numbers? Oh, the</p> <p>9 date --</p> <p>10 MS. NESBITT: No, the date.</p> <p>11 THE WITNESS: -- was -- the date is</p> <p>12 February 16, 1995.</p> <p>13 Q. (BY MS. ST. PETER-GRIFFITH) Did Ms. Tobiason</p> <p>14 send out regular reimbursement updates?</p> <p>15 A. There was a period of time where she was</p> <p>16 sending out a publication like this, if I recall</p> <p>17 correctly, and this would appear to indicate I do,</p> <p>18 upon having seen this and I probably would not have</p> <p>19 remembered that otherwise.</p> <p>20 Q. Who did she send it out to?</p> <p>21 A. This would go to Abbott clients, I believe,</p> <p>22 and also it was probably distributed to the Home</p> <p>23 Infusion Services management and/or reimbursement.</p> <p>24 That I don't really recall.</p> <p>25 Q. With regard to -- if you can look on Page 2.</p>	<p style="text-align: right;">Page 245</p> <p>1 A. No, I sure didn't.</p> <p>2 Q. Okay. If you could go on to the next</p> <p>3 document, please.</p> <p>4 A. At least not that I can recall. I might have</p> <p>5 recalled that, but I'm not sure.</p> <p>6 Okay. This document numbers are 2927</p> <p>7 through 2930 stapled together. It's a copy from</p> <p>8 somewhere with information about this waiver of</p> <p>9 liability that I had explained earlier. It looks like</p> <p>10 it's somebody's manual. It's got some handwritten</p> <p>11 notes on it, which are my handwriting. That's what it</p> <p>12 is.</p> <p>13 Q. Okay.</p> <p>14 A. Okay.</p> <p>15 Q. Did you draft that?</p> <p>16 A. No, definitely not.</p> <p>17 Q. Okay. If we could move on to the next</p> <p>18 binder.</p> <p>19 A. This is probably -- I mean, you know, it</p> <p>20 doesn't identify where it's coming from, but I know</p> <p>21 enough to recognize it's probably from one of the</p> <p>22 government Medicaid contractors, such as a DMERC.</p> <p>23 Q. Okay. Sir, if you could give the Bates range</p> <p>24 and describe this binder.</p> <p>25 A. Sure. 3494 through 3580 and -- oh, here it</p>

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1 is, 3581. I thought someone had missed -- so that's  
2 what it -- that's the numbers. It's entitled  
3 "Reimbursement Training Program Insurance" dated 1995  
4 from Abbott Home Infusion Services. You want to know  
5 what this is?

6 Q. Yes, I do.

7 A. Yeah. This was another manual that was  
8 provided to Abbott employees and, perhaps, to clients,  
9 also, when training on reimbursement was done in this  
10 case, kind of teaching them about insurance in  
11 general.

12 Q. And is it training for claims -- for  
13 third-party payers, such as insurance companies,  
14 private third-party payers such as insurance  
15 companies?

16 A. I would say so. There's something in here  
17 about Medicare as a secondary payer, which, actually,  
18 does refer to -- at least when you bill Medicare as  
19 to -- there are cases where another insurer may  
20 actually be billed before Medicare will be billed even  
21 though the patient is Medicare. So there's some  
22 aspect of Medicare in this book, as I see. But to me,  
23 right now looking at this, it mostly appears to be  
24 referring to private insurance. There's something  
25 about hospice care. I would have to look at that to

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1 figure it out.

2 Q. Okay. Sir, did you use this in the context  
3 of your -- your job responsibilities within --

4 A. I don't have any recollection of using this.  
5 I might have attended one of the trainings that were  
6 done on this using this book.

7 Q. Is this a binder that you maintain in your  
8 office?

9 A. I think.

10 Q. Do you know who conducted -- or who drafted  
11 this book or who was responsible for its content?

12 A. Likely it was Shellie Bronson.

13 Q. Okay. Shellie Bronson when she was working  
14 with Home Infusion reimbursement or when she was  
15 working in Home Infusion Contract Marketing?

16 A. Reimbursement.

17 Q. Okay.

18 A. Ready for the next one?

19 Q. Go ahead, please. If you could give the  
20 Bates range of the next document.

21 A. 3582 through 3731. This is entitled "Abbott  
22 CHIP System," "Expert Database and Query Writing."  
23 It's dated October 2001. In the period of time that I  
24 was that -- product manager -- well, manager of client  
25 services, that was the official name, I was teaching

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1 clients and Abbott staff how to do the custom report  
2 writing using this tool called the query tool in the  
3 CHIP system. This is a manual that I would have  
4 compiled together. Not to say I would have written  
5 every part of it. I probably wrote parts of it. And  
6 that's what this is on the bottom portion.

7 And looking briefly at these, I would be  
8 happy to take you through each one if you would want  
9 to but --

10 Q. Sure. If you could.

11 A. Hoping -- I was hoping you would say no.

12 MR. STETLER: Then why did you offer?  
13 Logical question.

14 A. You know, both -- both of these are just  
15 materials related to that training and there appears  
16 to be -- I think what I was looking at here are  
17 examples of what some of the data constricts --  
18 constricts, structures were within the CHIP system,  
19 that's what this is, so that someone writing a query  
20 to try and report on this type of data would have some  
21 understanding as to how it was placed into the CHIP  
22 system. I think that's what this is.

23 This, actually, appears to be examples  
24 of reports that could be created from a query and work  
25 created from a query.

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1 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you  
2 could just give the Bates range of that particular  
3 document.

4 A. Sure. It's 039 -- I'm sorry. 3591 through  
5 3593. That's an example of a report.

6 And then we start again at 3594 through  
7 3620. And this is actually a report that lists the  
8 hierarchical computer file structure within the CHIP  
9 system that someone that was actually writing these  
10 query reports would need to have some understanding  
11 of, so this is a listing of it.

12 Q. Okay. And the prior document that you were  
13 referencing that's -- that's loose in the binder --

14 A. Yes.

15 Q. -- can you give the Bates range, please?

16 A. This one (indicating)?

17 Q. No. The one -- the one that's on your  
18 right-hand side right there.

19 A. This one (indicating).

20 Q. Yes.

21 A. 3584 through 3590.

22 Q. Okay. If we could go to the next manual. I  
23 just want to make sure that we're able to get through  
24 all these before the end of the day, at least  
25 identifying them.

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1 MS. ST. PETER-GRIFFITH: And,  
2 Mr. Stetler, if I could just ask you to put those  
3 loose documents in the -- in the pocket so that we  
4 don't lose them. Is there a pocket for that? In the  
5 front. The pocket in the front.

6 MR. STETLER: I'm just trying to get  
7 them in the right order.

8 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you  
9 could give the Bates range of this binder.

10 A. Sure. It's 3738 through 3835. It's entitled  
11 "Beyond AWP: Strategies for Maximizing Business  
12 Performance." This is a -- at least a portion, if not  
13 all of this, is from the National Home Infusion  
14 Association, what was called an -- what is called an  
15 NHIA executive conference on February 6 of 2002.

16 Q. Did you attend that conference?

17 A. Well, I -- I would have been present. Was I  
18 actually in this conference, I'm not sure right now.

19 Q. Okay.

20 A. But I would have been at least in the  
21 building and I may have.

22 Q. Were these materials compiled by the NAIH?

23 A. They were compiled by NHIA --

24 Q. I'm sorry.

25 A. -- but they consist of largely collection --

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1 materials by those that were doing the presentation,  
2 most of which, but not all of which, perhaps, were not  
3 NHIA staff. And, actually, I do believe I was in  
4 this, yes.

5 Q. Did you draft any portion of those compiled  
6 materials?

7 A. I don't think so.

8 Q. And, sir, is NHIA the organization that you  
9 are now employed with?

10 A. Yes.

11 Q. But in 2002, is that the date of that manual?

12 A. Yes.

13 Q. Were you employed with NHIA at that time?

14 A. No. No.

15 Q. Was this a manual that you retained in your  
16 office at Abbott?

17 A. Yes.

18 Q. Okay. Were there other attendees that you  
19 are aware from Abbott?

20 A. Not that I'm aware of.

21 Q. Were you asked to provide information on  
22 Abbott's behalf in contribution towards that compendia  
23 of materials?

24 A. Not that I'm aware of.

25 Q. Okay. And the loose documents that are in

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1 the front, if you could give the Bates range and  
2 describe what they are.

3 A. The first stapled document, 3740 through  
4 3747, is a presentation that evidently was done by one  
5 of the individuals called "Electronic" -- "Electronic  
6 Prescribing: Are We There Yet?" at this -- Wednesday,  
7 February 6, 2002. Yeah, I would say at this  
8 conference. At this particular executive conference.

9 Q. And on the back of the last page of that  
10 document is there a Bates number? There appears to be  
11 handwriting. If you just flip it over.

12 A. 3748.

13 Q. Okay. And is that your handwriting?

14 A. That is my scrawl, yes.

15 Q. And the other loose documents, if you could  
16 give the Bates range and describe those.

17 A. 3749 through 3752 called "Electronic  
18 Prescribing: Are We There Yet?" It must have been  
19 part of this presentation. Yeah. It's additional  
20 material. It's "Educational Objectives," "Learning  
21 Assessment Questions." These -- yeah. This is what's  
22 required for continuing education credits for those  
23 that are eligible for such.

24 Q. Okay. Does that include you?

25 A. No.

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1 Q. Okay. And the -- the loose couple of pages,  
2 it appears, or more than a couple, maybe, what are  
3 those documents?

4 A. The NHIA executive conference for many years  
5 has been a -- what we call a preconference session -  
6 now I'm speaking kind of as an NHIA employee - to the  
7 NHIA annual conference. So the NHIA annual conference  
8 will be several days of presentations. And then the  
9 preconference, one of them that's held, and has been  
10 held for a long time, is an NHIA executive conference.

11 So this book, and everything we  
12 discussed so far, was from the executive conference.  
13 At least some of these materials now are from the  
14 general conference that was conducted several days  
15 later.

16 So the first document, 3753, is a list  
17 of what are called round table receptions. That is a  
18 period of time where individuals at the conference can  
19 join a table where people are talking about particular  
20 subjects and this is a list of what all the subjects  
21 are, in a big room.

22 Q. Okay. Are the remainder just miscellaneous  
23 documents?

24 A. They are -- yeah. I mean, there's a  
25 collection of things from that conference. This is --

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<p style="text-align: right;">Page 254</p> <p>1 well, do you want more?</p> <p>2 Q. Sure. If you could just briefly describe</p> <p>3 them.</p> <p>4 A. Sure. 3754 and 3755 on the reverse side is</p> <p>5 talking about what's called a DMERC advisory</p> <p>6 committee. That's a committee of suppliers that bill</p> <p>7 to Medicare that -- it's kind of a sound board</p> <p>8 provided to the Medicare contractor, they're still</p> <p>9 around today, and this is talking about one of those</p> <p>10 committees.</p> <p>11 The next one is a presentation at 35 --</p> <p>12 3756 through 3760 entitled NHIA -- well, it's a</p> <p>13 presentation from the annual conference entitled</p> <p>14 "Reimbursement Begins When the Phone Rings" by Joe</p> <p>15 Pomis. And Joe is doing a presentation here on things</p> <p>16 he thinks that are important in reimbursement.</p> <p>17 Q. Okay.</p> <p>18 A. The next one is 3761, one page. It's a</p> <p>19 letter from a company that was called Pharmaceutical</p> <p>20 Buyers, Inc. to NHIA conference attendees welcoming</p> <p>21 them, talking about PBI being proud to sponsor the</p> <p>22 executive conference and hopefully, as they would view</p> <p>23 it, making the attendees feel good about PBI.</p> <p>24 Q. Okay.</p> <p>25 A. 3762 is also from the conference and,</p>	<p style="text-align: right;">Page 256</p> <p>1 A. Which one?</p> <p>2 MR. STETLER: The next one.</p> <p>3 Q. (BY MS. ST. PETER-GRIFFITH) The next one.</p> <p>4 A. This one (indicating)?</p> <p>5 Q. The spiral bound.</p> <p>6 A. Okay. The numbers are 4078 through 4136.</p> <p>7 The binder is called "Hospital Business Sector Product</p> <p>8 Overview, "Presented by: HPD Sales Training &amp;</p> <p>9 Development" on August 8, 2002. This was a training</p> <p>10 document from a class that I do recall attending that</p> <p>11 was basically to be -- you know, it was presented by</p> <p>12 HPD to teach those that were not involved in product</p> <p>13 on a day-to-day basis, something about the HPD</p> <p>14 products, and that's what this book is.</p> <p>15 Q. Okay. The next binder, please.</p> <p>16 A. This one is blank on the cover. 4138 through</p> <p>17 4310. These appear to be a collection of</p> <p>18 presentations from another NHIA annual conference that</p> <p>19 I attended in Fort Lauderdale, Florida.</p> <p>20 Q. Well, that's my hometown, but --</p> <p>21 A. Oh, is it? At some time. I see a date here</p> <p>22 of 1998. I see another date of May 20th. I don't</p> <p>23 know exactly when this was, unless the date pops up</p> <p>24 here. Rx Expo '99. It looks to me like it was in</p> <p>25 1999.</p>
<p style="text-align: right;">Page 255</p> <p>1 actually, it's just another apparent piece of material</p> <p>2 that attendees of this executive conference got with</p> <p>3 PBI's name on it. And I guess at the time the</p> <p>4 association had some other companies that were helping</p> <p>5 fund the executive conference and they seem to be</p> <p>6 listed here, too. That's what this document is here,</p> <p>7 too.</p> <p>8 Q. Okay. If we could move on to the next</p> <p>9 binder.</p> <p>10 MR. STETLER: I'll do it. We've got a</p> <p>11 lot more to go.</p> <p>12 A. Okay. The numbers are 3838 through 4076.</p> <p>13 Q. (BY MS. ST. PETER-GRIFFITH) And what is</p> <p>14 that?</p> <p>15 A. Well, the binder says "Home Infusion:</p> <p>16 Reimbursement and Management" with David Franklin.</p> <p>17 This binder was used for presentations done apparently</p> <p>18 on four different dates in 2001 and 2002 where the</p> <p>19 association had sponsored someone to teach those in</p> <p>20 the provider side of the industry how to do</p> <p>21 reimbursement. And so this is a training binder for</p> <p>22 that purpose.</p> <p>23 Q. Okay. If you could move on to the next</p> <p>24 binder.</p> <p>25 MR. STETLER: Go ahead.</p>	<p style="text-align: right;">Page 257</p> <p>1 Q. Okay. If you could move on to the next</p> <p>2 binder.</p> <p>3 MR. STETLER: Thank you.</p> <p>4 A. 4311 through 4445. It's called "Product</p> <p>5 Launch Guide," Abbott CHIP. Oh, okay. Before we</p> <p>6 learned that Abbott was to be closing the business</p> <p>7 unit, the business unit had made a decision to --</p> <p>8 to -- to commercially market the CHIP computer system,</p> <p>9 to simply sell it, or at least the rights to use it,</p> <p>10 in and amongst itself to other parties as opposed to</p> <p>11 the full set of services the business unit had more</p> <p>12 typically provided. So this was a document that I</p> <p>13 believe was used for the training of the sales staff</p> <p>14 at that time to kick off that selling effort.</p> <p>15 MS. ST. PETER-GRIFFITH: Okay. We've</p> <p>16 got five minutes left on the tape. How many more</p> <p>17 binders do we have, Mr. Stetler?</p> <p>18 MR. STETLER: Five.</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) Five. If we</p> <p>20 could just -- sir, if you could just very quickly</p> <p>21 identify the Bates ranges and the titles of the</p> <p>22 binders.</p> <p>23 A. 4446 through 4546. This is a training manual</p> <p>24 from a Socratic selling class that I did attend for</p> <p>25 basically how to sell.</p>

65 (Pages 254 to 257)

## FREDERICKS-CARROLL REPORTING

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<p style="text-align: right;">Page 258</p> <p>1 Q. Okay. The next binder?</p> <p>2 A. 4547 through 4800. This is called "Insurance</p> <p>3 Overview." It's got a date scratched here of 1997,</p> <p>4 originally 1996. This also at times must have been</p> <p>5 used for training Abbott staff and clients on aspects</p> <p>6 of reimbursement is what I would say.</p> <p>7 Q. And the next one? If you just give the Bates</p> <p>8 range.</p> <p>9 A. Well, the numbers are 4801 through 5108.</p> <p>10 It's also entitled "Insurance Overview." This, also,</p> <p>11 was probably used for the same purpose as the previous</p> <p>12 one to train Abbott staff and, perhaps, clients on</p> <p>13 reimbursement topics.</p> <p>14 Q. And the final?</p> <p>15 MR. STETLER: No, not the final.</p> <p>16 MS. ST. PETER-GRIFFITH: Oh, second to</p> <p>17 last.</p> <p>18 MR. STETLER: Second to last.</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) If you could --</p> <p>20 A. Okay. Everything in the binder starts at</p> <p>21 5521. It ends at 5895. Meaning some of it is</p> <p>22 actually three-hole punched in the binder, others are</p> <p>23 materials.</p> <p>24 Q. Okay. And this binder is what? If you could</p> <p>25 describe it. I think there's a name on the spine.</p>	<p style="text-align: right;">Page 260</p> <p>1 adjourn for the day because I know Mr. Stetler has to</p> <p>2 leave and we're out of tape.</p> <p>3 MR. STETLER: Good.</p> <p>4 THE VIDEOGRAPHER: We're off the record</p> <p>5 at 4:15 p.m. The conclusion of this session of the</p> <p>6 deposition of Mr. Bruce E. Rodman.</p> <p>7</p> <p>8 (Deposition adjourned at 4:15 p.m.)</p> <p>9 (Signature waived)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 259</p> <p>1 MS. MOORE: On the spine.</p> <p>2 A. Well, I'm not seeing it yet. Oh. Well, it</p> <p>3 says "Medicare Enteral Billing." I'm not sure that's</p> <p>4 what it is, though.</p> <p>5 Q. Okay. And if you could just describe the</p> <p>6 next binder really quickly.</p> <p>7 A. Okay.</p> <p>8 MR. STETLER: No, this is (indicating)</p> <p>9 the next one.</p> <p>10 THE WITNESS: This being the next one?</p> <p>11 Okay.</p> <p>12 MR. STETLER: Let me hand you 5111</p> <p>13 through 5519.</p> <p>14 THE WITNESS: So I'm giving you this</p> <p>15 back. Thank you.</p> <p>16 Q. (BY MS. ST. PETER-GRIFFITH) And what --</p> <p>17 what -- if you could just describe what this is.</p> <p>18 A. This says "Medicare Part B PEN Manual."</p> <p>19 MS. ST. PETER-GRIFFITH: And this is the</p> <p>20 last binder, Mr. Stetler?</p> <p>21 MR. STETLER: It's the last binder.</p> <p>22 MS. ST. PETER-GRIFFITH: Okay.</p> <p>23 A. This also is a training manual having to do</p> <p>24 with aspects of reimbursement.</p> <p>25 MS. ST. PETER-GRIFFITH: Why don't we</p>	<p style="text-align: right;">Page 261</p> <p>1 STATE OF TEXAS )</p> <p>2 COUNTY OF TRAVIS )</p> <p>3</p> <p>4 I, CYNTHIA VOHLKEN, CSR #1059, do hereby</p> <p>5 certify that, pursuant to the agreement hereinabove</p> <p>6 set forth, there came before me on the 29th day of</p> <p>7 August, 2007, at 8:47 o'clock a.m., in the offices of</p> <p>8 Stetler &amp; Duffy, LLP, 11 S. La Salle, Suite 1200,</p> <p>9 Chicago, Illinois, the following named person, to-wit:</p> <p>10 BRUCE E. RODMAN, who was by me duly sworn to testify</p> <p>11 to the truth and nothing but the truth of witness'</p> <p>12 knowledge touching and concerning the matters in</p> <p>13 controversy in this cause; that such witness was</p> <p>14 thereupon examined under oath, and the examination</p> <p>15 transcribed by computer-assisted transcription by me</p> <p>16 or under my supervision, and that the deposition is a</p> <p>17 true record of the testimony given by the witness.</p> <p>18 I further certify that I am neither attorney</p> <p>19 nor counsel for, nor related to or employed by, any of</p> <p>20 the parties to the action in which this deposition is</p> <p>21 taken and, further, that I am not a relative or</p> <p>22 employee of any attorney or counsel employed by the</p> <p>23 parties hereto, or financially interested in the</p> <p>24 action.</p> <p>25</p>

66 (Pages 258 to 261)


## FREDERICKS-CARROLL REPORTING

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1 That the amount of time used by each party at  
2 the deposition is as follows:

3 Ms. Ann St. Peter-Griffith - 05:50

4  
5 IN WITNESS WHEREOF I have hereunto set my  
6 hand on this 10th day of September, A.D. 2007.

7  
8   
9

10 Cynthia Vohlken, Texas CSR 1059

11 Expiration Date: 12/31/2008

12 Firm Registration No. 82

13 Fredericks-Carroll Reporting

14 7800 Shoal Creek Boulevard

15 Suite 200 W

16 Austin, Texas 78757

Telephone: (512) 477-9911

(800) 234-3376

Fax: (512) 345-1417

JOB NO. 2639

1 NO. D-1-GV-04-001286  
2 THE STATE OF TEXAS ) IN THE DISTRICT COURT

3 )  
4 ex rel. )

5 VEN-A-CARE OF THE )  
6 FLORIDA KEYS, INC., )  
7 Plaintiffs, )

8 )  
9 VS. ) TRAVIS COUNTY, TEXAS

10 ABBOTT LABORATORIES INC., )

11 ABBOTT LABORATORIES, )

12 HOSPIRA, INC., and B. BRAUN )

13 MEDICAL INC., )

14 Defendant(s). ) 201ST JUDICIAL DISTRICT

15 REPORTER'S CERTIFICATION

16 DEPOSITION OF BRUCE E. RODMAN

17 August 29, 2007

18 I, Cynthia Vohlken, Certified Shorthand  
19 Reporter in and for the State of Texas, hereby certify  
20 to the following:

21 That the witness, BRUCE E. RODMAN, was duly  
22 sworn by the officer and that the transcript of the  
23 oral deposition is a true record of the testimony  
24 given by the witness;

25 That examination and signature of the witness  
to the deposition transcript was waived by the witness  
and agreement of the parties at the time of the  
deposition.

That the amount of time used by each party at  
the deposition is as follows:

Ms. Ann St. Peter-Griffith - 05:50

1 That \$ is the deposition officer's  
2 charges to the Plaintiffs for preparing the original  
3 deposition transcript and any copies of exhibits;

4 That pursuant to information given to the  
5 deposition officer at the time said testimony was  
6 taken, the following includes counsel for all parties  
7 of record:

8 MS. ANN M. ST. PETER-GRIFFITH,

9 Attorney for Plaintiff United States of

America

10 MS. AMBER M. NESBITT,

11 Attorney for Plaintiff State of Arizona

and MDL Plaintiffs

12 MS. MARGARET MOORE, Attorney for Plaintiff

State of Texas

13 MR. TIMOTHY C. FOOTE, Attorney for

Plaintiff State of California

14 MS. TARA FUMERTON,

15 Attorney for Defendants Abbott

Laboratories, Inc. and Hospira, Inc.

16 That a copy of this certificate was served on  
17 all parties shown herein on September 10, 2007 and  
18 filed with the Clerk pursuant to Rule 203.3.

19 I further certify that I am neither counsel  
20 for, related to, nor employed by any of the parties or  
21 attorneys in the action in which this proceeding was  
22 taken, and further that I am not financially or  
23 otherwise interested in the outcome of the action.

24

25

1 Certified to by me this 10th day of  
2 September, 2007.

3  
4   
5

6 CYNTHIA VOHLKEN, TX CSR 1059

Expiration Date: 12/31/2009

7 Firm Registration No. 82

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Job No. 2639

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESALE ) MDL No. 1456  
PRICE LITIGATION ) Civil Action No.  
 ) 01-12257-PBS  
 )  
THIS DOCUMENT RELATES TO: )  
 )  
United States of America, ) Hon. Patti Saris  
ex rel. Ven-a-Care of the )  
Florida Keys, Inc., v. )  
Abbott Laboratories, Inc., )  
and Hospira, Inc. )  
CIVIL ACTION NO. 06-11337-PBS )

\*\*\*\*\*

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESALE ) MDL No. 1456  
PRICE LITIGATION ) Civil Action No.  
 ) 01-CV-12257-PBS  
 )  
THIS DOCUMENT RELATES TO: )  
 ) Judge Patti B. Saris  
State of California, ex rel. )  
Ven-A-Care v. Abbott ) Magistrate  
Laboratories, et al. ) Judge Marianne Bowler  
Cause Nos. 03-cv-11226-PBS )

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF  
BRUCE E. RODMAN  
October 11, 2007  
Volume 2

\*\*\*\*\*

FREDERICKS-CARROLL REPORTING

AUSTIN (512) 477-9911 - HOUSTON (713) 572-8897 - SAN ANTONIO (210) 222-9161

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1 NO. D-1-GV-04-001286  
 2 THE STATE OF TEXAS ) IN THE DISTRICT COURT  
 3 )  
 4 ex rel. )  
 5 VEN-A-CARE OF THE )  
 6 FLORIDA KEYS, INC., )  
 7 Plaintiffs, )  
 8 )  
 9 VS. ) TRAVIS COUNTY, TEXAS  
 10 )  
 11 ABBOTT LABORATORIES INC., )  
 12 ABBOTT LABORATORIES, and )  
 13 HOSPIRA, INC., )  
 14 Defendants. ) 201ST JUDICIAL DISTRICT  
 15 \*\*\*\*\*  
 16 ORAL AND VIDEOTAPED DEPOSITION OF BRUCE E. RODMAN,  
 17 produced as a witness at the instance of the  
 18 Plaintiff(s), and duly sworn, was taken in the  
 19 above-styled and numbered causes on the 11th of  
 20 October, 2007, from 9:16 a.m. to 5:07 p.m., before  
 21 CYNTHIA VOHLKEN, CSR in and for the State of Texas,  
 22 reported by machine shorthand, at the offices of  
 23 Stetler & Duffy, LLP, 11 S. La Salle, Suite 1200,  
 24 Chicago, Illinois, pursuant to the Federal and Texas  
 25 Rules of Civil Procedure and the provisions attached  
 previously.

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1 FOR THE DEFENDANTS ABBOTT LABORATORIES INC. AND  
 2 HOSPIRA, INC.:  
 3 Mr. Jeremy Cole  
 4 Jones Day  
 5 77 West Wacker, Suite 3500  
 6 Chicago, Illinois 60601-1692  
 7  
 8 FOR THE WITNESS:  
 9 Mr. David J. Stetler  
 10 Stetler & Duffy, Ltd.  
 11 11 South LaSalle Street, Suite 1200  
 12 Chicago, Illinois 60603  
 13  
 14 ALSO PRESENT:  
 15 Mr. Anthony Micheletto, Videographer  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 APPEARANCES  
 2  
 3 FOR THE PLAINTIFF UNITED STATES OF AMERICA:  
 4 Ms. Ann M. St. Peter-Griffith  
 5 Assistant U.S. Attorney  
 6 United States Attorney's Office  
 7 Southern District of Florida  
 8 99 N.E. Fourth Street  
 9 Miami, Florida 33132  
 10  
 11 FOR THE PLAINTIFF THE STATE OF CALIFORNIA:  
 12 Mr. Eliseo Sisneros  
 13 Deputy Attorney General  
 14 BMFEA  
 15 Bureau of Medi-Cal Fraud & Elder Abuse  
 16 State of California Department of Justice  
 17 110 West A Street #1100  
 18 San Diego, California 92101  
 19  
 20 FOR THE PLAINTIFF THE STATE OF TEXAS:  
 21 Ms. Margaret Moore  
 22 (By Telephonic Means)  
 23 Assistant Attorney General  
 24 Office of the Attorney General  
 25 State of Texas  
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 19 FOR THE RELATOR:  
 20 MS. SUSAN THOMAS  
 21 Berger & Montague, P.C.  
 22 1622 Locust Street  
 23 Philadelphia, Pennsylvania 19103  
 24  
 25

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 (BR 01407-1503) Highly Confidential  
 1388..... 367  
 CHIP Reimbursement A-Z Class Materials  
 (BR 02698-2906) Highly Confidential  
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 CHIP Reimbursement Module User's Guide  
 (BR 01744-2150) Highly Confidential  
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 E-mail string; March 15, 2001 E-mail from  
 Bruce Rodman to Jerrie Cicerale, Subject:  
 Price Validation (TXABT 42025-26 or  
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1 THE VIDEOGRAPHER: This is Anthony  
2 Micheletto representing Complete Litigation Support.  
3 I am the operator of this camera. This is the  
4 videotaped deposition of Bruce Rodman as being taken  
5 pursuant to Federal Rules of Civil Procedure on behalf  
6 of the plaintiff.

7 We are on the record on October 11,  
8 2007. The time is 9:16 a.m., as indicated on the  
9 video screen. We are at 11 South La Lasalle Street,  
10 Chicago, Illinois. This case is captioned In Re:  
11 Pharmaceutical Industry Average Wholesale Price  
12 Litigation. Case Number 01-CV-12257-PBS.

13 Will the attorneys please identify  
14 themselves for the video record.

15 MS. ST. PETER-GRIFFITH: Ann  
16 St. Peter-Griffith from the United States Attorney's  
17 Office, Southern District of Florida on behalf of the  
18 United States.

19 MR. SISNEROS: Eliseo Sisneros, Deputy  
20 Attorney General on behalf of the State of California.

21 MS. THOMAS: Susan Thomas, Berger &  
22 Montague, on behalf of the Relator, Ven-A-Care of the  
23 Florida Keys.

24 MR. COLE: Jeremy Cole from Jones Day in  
25 Chicago for the Abbott defendants and Hospira.

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1 MR. STETLER: Dave Stetler for the  
2 witness.

3 THE VIDEOGRAPHER: The court reporter  
4 today is Cynthia Vohlken from Complete Litigation  
5 Support. Please swear in the witness.

6 BRUCE RODMAN,  
7 having been first duly sworn, testified as follows:

8 EXAMINATION (CONTINUED)

9 BY MS. ST. PETER-GRIFFITH:

10 Q. Welcome back, Mr. Rodman.

11 A. Thank you, Ann.

12 Q. Since we were last here and we last took your  
13 deposition, have you done anything in terms of  
14 preparing for today's deposition?

15 A. I spoke to my lawyer yesterday, I believe it  
16 was, and compared my notes, just my notes of -- down  
17 on the train.

18 Q. Okay. Your notes of your conversations with  
19 Mr. Stetler?

20 A. That and my outline of the documents that I  
21 turned over.

22 Q. Okay.

23 A. Notes from my Jones Day talk when I had the  
24 first phone call, that sort of thing.

25 Q. Okay.

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1 A. But you already have a copy of that.

2 Q. We've already gotten copies of this.

3 A. Yeah, uh-huh.

4 Q. Okay. There are no new notes that you're  
5 talking about?

6 A. Other than from my conversation with --

7 Q. Mr. Stetler?

8 A. Mr. Stetler yesterday, no.

9 Q. Okay. Sir, did you review your deposition  
10 transcript of the first day of your deposition?

11 A. I did not.

12 Q. Okay. After the deposition concluded and  
13 during the -- our break before reconvening today, have  
14 you thought about your deposition testimony at all?

15 A. Have I thought about it? This is the first  
16 time I've ever done a deposition, so I guess I thought  
17 about it, but did I spend any real time on it or  
18 change any conclusions? No.

19 Q. That -- that was more --

20 A. Change, no. If that's what you're getting  
21 at.

22 Q. That was more of my question. Did you have  
23 time to reflect on the answers that you gave? And I  
24 just want to give you the opportunity at this time if  
25 there's anything that you think you need to change or

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1 amplify from your answers that you gave in your first  
2 deposition, I just wanted to give you the opportunity  
3 to do that now.

4 A. I can honestly say I didn't think about  
5 anything like that during that time and, therefore, I  
6 don't have anything to modify from then.

7 Q. Well, the same rules apply that -- that  
8 applied before. If -- if at any time you think of  
9 anything, you know, when you respond to a question, if  
10 there's something that comes up later on, you know, we  
11 did this before, please feel free to just let us know  
12 and we're happy to have you either change or amplify  
13 your information. Okay?

14 A. Okay.

15 Q. At the end of the deposition we spent a lot  
16 of time identifying documents that you had produced.  
17 What I would like to do right now is to just have  
18 you -- is to discuss some -- some general areas which  
19 were clearly within the purview of -- of your  
20 employment as a reimbursement specialist. Just  
21 generally.

22 And the first thing I would like to  
23 discuss is the CHIPs system itself. I believe you  
24 testified earlier that you were a -- you were the  
25 interface for the CHIP system. Can you just take us

3 (Pages 271 to 274)

## FREDERICKS-CARROLL REPORTING

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1 through, what is the CHIP system and how is it  
2 developed?

3 A. Well, the development I'll just answer more  
4 quickly because -- unless you want more, but it was  
5 developed entirely in-house by Abbott employees and I  
6 think some contractors before I was involved with the  
7 business unit of Home Infusion Services.

8 Q. Okay.

9 A. The function of the CHIP system was to serve  
10 as a complete pharmacy and business management  
11 information system for a home infusion business. So  
12 it had major modules to handle inventory and  
13 purchasing, to handle pharmacy patient records,  
14 prescriptions, to handle the functions that -- the  
15 reimbursement function would do, basically the billing  
16 and collections on claims to the health plans. And --  
17 and, you know, quite a bit of management reporting and  
18 a lot of that reporting was used, actually, to feed  
19 accounting -- other accounting systems or, you know,  
20 either -- I guess most of it was manual. But  
21 that's -- as an overview, that's what it was.

22 Q. When you say "other accounting systems," what  
23 accounting systems are you referencing?

24 A. Well, Abbott had various accounting systems  
25 of which I was not familiar with, but, you know, done

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1 by the accountants. And so -- as an example, the CHIP  
2 system would generate a gross sales report that would  
3 provide an estimate in that report of gross sales and  
4 net sales and the accountants would do -- would use  
5 that information to feed that into Abbott's accounting  
6 systems for the purpose of, you know, preparing the --  
7 you know, keeping the financial books for the business  
8 unit and also indirectly for the corporation since the  
9 business unit was part of the corporation. Well,  
10 directly for the corporation.

11 Q. Okay. Which business units utilized the CHIP  
12 system while -- while you -- during your tenure in the  
13 reimbursement area?

14 A. The pharmacy area, which would include those  
15 responsible for inventory.

16 Q. Okay.

17 A. The reimbursement area.

18 Q. Reimbursement area of which -- of Home  
19 Infusion?

20 A. Yes.

21 Q. Okay. And the other reimbursement area?

22 A. Well, also of Abbott's clients that were  
23 users of the CHIP system.

24 Q. Okay.

25 A. That would also be true for the pharmacies.

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1 Q. Okay. Abbott had its own pharmacies, we  
2 discovered.

3 A. Abbott did have its own pharmacies, but the  
4 clients had their pharmacies, too.

5 Q. Okay.

6 A. The most major unit, I guess, would be --  
7 would be the accounting department. Those three would  
8 be, if my memory serves me correctly, the most likely  
9 hands-on users to the CHIP system.

10 Q. And which accounting department? Was there  
11 just one big accounting department at Abbott or did  
12 each business unit have its own accounting department?

13 A. Each business unit had its own accounting  
14 department.

15 Q. Okay. So which business units at Abbott  
16 would -- which accounting departments in which  
17 business units at Abbott would utilize the CHIP  
18 system?

19 A. Let me go back. The fourth function would be  
20 contract marketing.

21 Q. Okay.

22 A. I'm sorry. The question was which accounting  
23 department. That would be the accounting department  
24 within Home Infusion Services.

25 Q. Would any other accounting department for any

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1 other business unit have occasion or need to use the  
2 CHIP system?

3 A. Not that I was ever aware of.

4 Q. Okay. What about Contract Marketing? Which  
5 business unit Contract Marketing departments would  
6 utilize the CHIP system?

7 A. Within Home Infusion Services.

8 Q. Now, the CHIP system had a -- had a direct --  
9 had access to Redbook information, correct?

10 A. Yes.

11 Q. Okay. Did any other computers or computer  
12 databases at Abbott have a connection to or  
13 information from the Redbook?

14 MR. COLE: Object to the form.

15 Q. (BY MS. ST. PETER-GRIFFITH) Go ahead and  
16 answer.

17 A. I would have no knowledge of that.

18 Q. Did the -- was the CHIP system ever updated  
19 during the -- during your tenure in the reimbursement  
20 area in Home Infusion?

21 A. Oh, absolutely.

22 Q. Would you participate in the updates?

23 A. As the primary interface liaison individual  
24 between the reimbursement function and the CHIP  
25 system, sometimes I would be involved in the design of

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1 the updates. I would be involved in coordinating the  
2 user testing of the updates. And I would be involved  
3 in trying to prevent the disasters for when updates  
4 didn't work and figuring how to recover from them and  
5 putting pressure on the systems department in various  
6 ways. So I was very involved in that sense, yes. Did  
7 I program it? No.

8 Q. Who was responsible for determining what  
9 updates or augmentations needed to be made to the CHIP  
10 system?

11 A. During my tenure of involvement that was  
12 really done as a group process by managers throughout  
13 the unit and in some cases the general manager would  
14 have a strong say because he felt that something  
15 should be done. And I don't know that I could cite an  
16 example of that because I don't really remember.

17 Q. Okay.

18 A. So ...

19 Q. Who was the general manager?

20 A. Mike Snouffer was during the -- I was with  
21 Abbott Home Infusion for about -- for 10 years and he  
22 was the general manager for the first seven years in  
23 the business unit. And then Karla Kreklow for the  
24 past three years prior to the closing of the business.

25 Q. How would a suggestion or request for an

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1 update to the CHIP system be made? Would someone just  
2 say, "Hey, it would be a good idea if we did X, Y and  
3 Z," and then would it get discussed or how would that  
4 process work?

5 A. You know, you're stretching my memory here  
6 and I just --

7 Q. Okay.

8 A. -- have to say I don't recall those details.  
9 I'm sorry.

10 Q. Do you recall whether there was a steering  
11 committee for CHIPs?

12 A. At the risk of saying I might have been on  
13 it, I don't recall.

14 Q. Okay. Well, the reason why I say that --

15 A. If you refresh my memory, maybe I will.

16 Q. Sure. The reason why I say that, and I don't  
17 necessarily think we need to pull it out now, but  
18 there were references to the CHIP steering committee  
19 in your -- in the calendar that you produced.

20 A. Okay.

21 Q. Could there have been a CHIP steering  
22 committee?

23 A. There could have been.

24 Q. Do you know who might have been on it or who  
25 was on it?

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1 A. Well, as I did say earlier, really the  
2 prioritization decisions were made by teams of  
3 managers, so that probably was what was considered to  
4 be the CHIP steering committee. That would be what I  
5 would think.

6 Q. Okay. So who do you think would be the  
7 candidates that would be on the steering committee?

8 MR. COLE: Object to the form.

9 A. Individuals?

10 Q. (BY MS. ST. PETER-GRIFFITH) Yes.

11 A. They would be, I think, the managers within  
12 the reimbursement department, the manager of the  
13 pharmacy in the -- Chicago at Abbott Park, the  
14 accounting manager, the systems manager. I think that  
15 would be it.

16 Q. Who was the systems manager?

17 A. Chris Blandford.

18 Q. I'm sorry?

19 A. Excuse me. Chris -- female. Chris  
20 Blandford.

21 Q. Okay.

22 A. B-l-a-n-d-f-o-r-d.

23 Q. And was she the systems manager during the  
24 entire tenure of your --

25 A. Yes.

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1 Q. Okay. What -- who -- what about the account  
2 manager, who's that?

3 A. Jim Watson.

4 Q. And was he there -- was he the account  
5 manager during your entire tenure in reimbursement?

6 A. Yes.

7 Q. Okay. And the -- the -- the pharmacy at  
8 Abbott Park, who -- who was responsible or who would  
9 have been the representative for the pharmacy at  
10 Abbott Park?

11 A. For the -- until he left, that would be  
12 Robert Martin. It is also possible that his second in  
13 command in the pharmacy, whose name is Rich Zora,  
14 might have been involved.

15 Q. How many employees were in the Abbott -- were  
16 in the pharmacy at Abbott Park, do you recall?

17 A. My estimate would be 20.

18 Q. And Mr. Martin, you indicated that he left.  
19 When did he leave, do you recall?

20 A. I don't recall --

21 Q. He would --

22 A. -- that exactly. I could estimate that, if  
23 you would like me to.

24 Q. Sure.

25 A. I would estimate that was about 1999.

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<p style="text-align: right;">Page 283</p> <p>1 Q. Okay. And did someone take over for him?</p> <p>2 A. Rich Zora.</p> <p>3 Q. Okay. And was Mr. Zora there throughout the</p> <p>4 balance of your tenure with the company?</p> <p>5 A. The Chicago pharmacy was closed prior to the</p> <p>6 end of my tenure. To the best of my recollection,</p> <p>7 Rich Zora was there until it was closed.</p> <p>8 Q. When was it closed?</p> <p>9 A. Again, I could only estimate that.</p> <p>10 Q. If you could estimate.</p> <p>11 A. I would say 2002.</p> <p>12 Q. Okay. Did the Abbott pharmacy at Abbott</p> <p>13 Park, or any other Abbott pharmacy, have their own</p> <p>14 provider number for which they billed Medicare or</p> <p>15 Medicaid?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what that number was?</p> <p>18 A. Absolutely not.</p> <p>19 Q. Okay. Do you --</p> <p>20 MR. STETLER: We would have been</p> <p>21 impressed.</p> <p>22 Q. (BY MS. ST. PETER-GRIFFITH) Do you know</p> <p>23 where we could find it?</p> <p>24 A. From the government or government</p> <p>25 contractors.</p>	<p style="text-align: right;">Page 285</p> <p>1 employees?</p> <p>2 MR. COLE: Ann, if I could just</p> <p>3 interrupt. I just want to go back and clarify</p> <p>4 something. When he was listing the managers, I</p> <p>5 thought I heard him say accounting manager, but then</p> <p>6 subsequent questions you're referring to it as the</p> <p>7 account manager.</p> <p>8 MS. ST. PETER-GRIFFITH: Oh, thank you.</p> <p>9 We'll clarify.</p> <p>10 MR. COLE: I just want to clarify which</p> <p>11 is --</p> <p>12 Q. (BY MS. ST. PETER-GRIFFITH) Is it an account</p> <p>13 manager or an accounting manager?</p> <p>14 A. Accounting.</p> <p>15 Q. Accounting. Okay. Thank you. I misspoke.</p> <p>16 Was there an accounts manager within</p> <p>17 Home Infusion?</p> <p>18 A. If that means essentially sales managers,</p> <p>19 there were.</p> <p>20 Q. Okay.</p> <p>21 A. And, you know, the real title, it might have</p> <p>22 been business development manager, or something like</p> <p>23 that, but there were.</p> <p>24 Q. Now, the first -- when we were discussing who</p> <p>25 would be involved in -- in possibly either the</p>
<p style="text-align: right;">Page 284</p> <p>1 Q. Okay.</p> <p>2 MR. STETLER: You mean like her client?</p> <p>3 Never mind. Sorry. Couldn't resist.</p> <p>4 Q. (BY MS. ST. PETER-GRIFFITH) Would you know</p> <p>5 what -- what the name of the Abbott pharmacies were?</p> <p>6 A. To the best of my -- well, during my tenure</p> <p>7 there were three at that time.</p> <p>8 Q. Okay.</p> <p>9 A. And to the best of my recollection, each one</p> <p>10 of them was called the Abbott Home Infusion Services.</p> <p>11 I think that's what it was called.</p> <p>12 Q. Okay. So they had one name, but there were</p> <p>13 three different locations?</p> <p>14 A. Exactly.</p> <p>15 Q. Okay.</p> <p>16 A. So, you know, if you wanted the provider</p> <p>17 number for most of the billing that would be done to</p> <p>18 Medicare, for example, you would go to the national</p> <p>19 supplier clearinghouse.</p> <p>20 Q. Okay.</p> <p>21 A. They must have a history, I would assume.</p> <p>22 Q. Okay. Did these managers that you reference,</p> <p>23 the account manager, the systems manager, and the</p> <p>24 pharmacy, did they -- the pharmacy head, did they all</p> <p>25 work in Home Infusion? Were they Home Infusion</p>	<p style="text-align: right;">Page 286</p> <p>1 steering committee or participate in issues concerning</p> <p>2 the updating or the -- the updating of the CHIP</p> <p>3 system, you reference the reimbursement specialists or</p> <p>4 the reimbursement specialist managers; is that right?</p> <p>5 A. Yeah. There were, you know, more than one</p> <p>6 individual on the management team. Also, I would like</p> <p>7 to add, I think probably there would have been a</p> <p>8 representative from the contract marketing area on</p> <p>9 that steering committee, too.</p> <p>10 Q. Okay. Do you know who that would have been?</p> <p>11 A. Not offhand. Probably was multiple people.</p> <p>12 Q. Would -- do you know who -- can you identify</p> <p>13 who any of them would have been?</p> <p>14 MR. COLE: Object to the form.</p> <p>15 A. I could identify people that would likely</p> <p>16 have been, yes.</p> <p>17 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Who?</p> <p>18 MR. COLE: Object to the form.</p> <p>19 A. Lynn Leone.</p> <p>20 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>21 A. Shellie Bronson. I can't really recall if</p> <p>22 Dave Brincks would have been or not. He could have</p> <p>23 been, but ...</p> <p>24 Q. Was it costly to update the CHIP system?</p> <p>25 MR. COLE: Object to the form.</p>

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1 A. I was never involved in the budgeting for the  
2 CHIP system, so I --

3 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

4 A. -- couldn't answer that.

5 Q. I just asked because certainly our deponent  
6 earlier in the week, Mr. Robertson, had a few opinions  
7 about writing some large checks.

8 Now, would you have interaction with the  
9 representatives of the customers who licensed the CHIP  
10 system? Would you work with them?

11 A. At times.

12 Q. Okay. When would you work with them?

13 A. During the period in which I was part of the  
14 reimbursement management team, my work with them would  
15 be primarily -- we -- we -- for -- for the customers  
16 that I was involved in heavily was because we were  
17 responsible acting as a billing service it's called.

18 Q. Okay.

19 A. Which means, essentially the group that does  
20 the reimbursement functions, and to shorten that, it's  
21 the people that file the claims and collect the money  
22 from the health plans and the patients. And so we  
23 were performing a billing service for those clients in  
24 that reimbursement group. And I would have interface  
25 with the individuals that -- the customers that would

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1 be -- you know, typically be somebody who was the  
2 manager, and essentially reporting what we were doing  
3 to them because we were serving them.

4 Sometimes some of those responsibilities  
5 would be split in terms of the customer might do  
6 patient screening, patient intake and then, you know,  
7 or at least certain functions of it, reimbursement  
8 would do the rest. And so I might have been involved  
9 with, you know, working out operational types of  
10 procedures to make that work. So that's what I would  
11 have done during that time.

12 I think I told you last time that for  
13 the past -- last three years that I was there,  
14 approximately -- well, there was a period of time,  
15 actually, in between where I was essentially doing an  
16 accounting -- not accounting, reporting types of  
17 functions and analysis of accounts receivable risk for  
18 about a year or so. This was after my reimbursement  
19 supervisory responsibility before my CHIP systems  
20 direct responsibility. And there my customer  
21 reaction -- interaction was pretty limited during that  
22 period of time.

23 But then when I was -- I think I  
24 probably said to you last time that I was the --  
25 essentially the product manager and trainer for the

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1 CHIP system during those past three years or so. And  
2 so my interface with customers there was involved  
3 almost entirely with -- with respect to the CHIP  
4 system having to do with enhancements training, try to  
5 solve problems that people might have reported and  
6 that my help was needed on, that sort of thing.

7 Q. Was the CHIPs system the only vehicle that  
8 was used by Home Infusion to monitor billing,  
9 collections, inventories, either for Abbott itself or  
10 its revenue share clients?

11 MR. COLE: Object to the form.

12 A. To the best of my recollection, yes.

13 Q. (BY MS. ST. PETER-GRIFFITH) Okay. You  
14 indicated that it was -- that the CHIP system was  
15 developed before you got to Home Infusion, right?

16 A. Yes.

17 Q. Do you have an understanding as to who  
18 developed it?

19 A. Sketchy.

20 Q. Okay. What's your sketchy understanding?

21 A. That it was originally developed by a  
22 consulting group or -- of some sort. Chris Blandford,  
23 I had understood, was originally part of that  
24 consulting group, ended up being hired as the Abbott  
25 employee CHIP systems manager.

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1 Q. Okay. Do you know whose idea it was to  
2 develop this system?

3 A. No.

4 Q. Did you have any understanding as to whether  
5 or not managers above Mike Sellers wanted to continue  
6 with the home infusion business?

7 MR. COLE: Object to the form.

8 A. I know what I was told --

9 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

10 A. When the announcement was made, that the  
11 business was going to be shut down.

12 Q. And that was at the meeting with Mike  
13 Sellers, I believe you testified earlier?

14 A. There was a meeting -- there was a meeting  
15 where Mike Sellers announced that to the management  
16 team.

17 Q. Okay.

18 A. Yes.

19 Q. Well, what were you told?

20 A. That Abbott's strategy for the business units  
21 with Abbott was to -- for them to be substantial in  
22 size. And the number that I recall was a hundred  
23 million dollars of sales or more, sales to Abbott, and  
24 that Abbott did not feel that Home Infusion Services  
25 could ever meet that criteria and they were not

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1 meeting it at the time and that was the reason for  
 2 closing the business.  
 3 Q. Did you have any -- was that the first time  
 4 that you had ever -- strike that.  
 5 Was that the first time that you ever  
 6 had an understanding that the home infusion business  
 7 was not something that Abbott wanted to continue with?  
 8 A. I don't recall anything earlier than that.  
 9 Q. Okay.  
 10 A. You know, let me re-correct that. There's  
 11 something very hazy here. I remember something very  
 12 hazy that one of the clients might have gotten the  
 13 word about the potential -- the business unit being  
 14 closed before we knew it and there may have been some  
 15 consternation then, but it's very hazy.  
 16 Q. When Virginia Tobiason left, was there any  
 17 discussion about the continuation of the Home Infusion  
 18 unit?  
 19 A. I can't recall that.  
 20 Q. Do you know whether other people -- strike  
 21 that.  
 22 Let me ask it this way: Prior to that  
 23 meeting when you learned about the closure of Home  
 24 Infusion --  
 25 A. Uh-huh.

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1 Q. -- did you have any understanding as to  
 2 whether any of the senior management above Mr. Sellers  
 3 wanted to close the Home Infusion unit at any time?  
 4 A. Not that I recall.  
 5 Q. You mentioned that when you worked with the  
 6 CHIP system and with -- with clients, Abbott Home  
 7 Infusion clients, you worked on -- or you provided a  
 8 billing service; is that right?  
 9 A. During my tenure is one of the -- well, as  
 10 reimbursement supervisor, which was approximately five  
 11 years.  
 12 Q. How did --  
 13 A. Yes.  
 14 Q. How did that billing service work?  
 15 A. Well, in our -- and, really, in any -- in any  
 16 healthcare provider industry, billing service is an  
 17 organization that -- that is responsible for the  
 18 filing of claims, the collections of the monies from  
 19 health plans and from patients and would have some  
 20 responsibility for the acceptance of patients, the  
 21 determination of their insurance, the -- you know,  
 22 some reporting of, essentially, performance measures,  
 23 that sort of thing.  
 24 Beyond that in terms of how it would  
 25 work, I think I need more guidance as to what you

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1 would be looking for.  
 2 Q. Okay. Well, if you could explain how a  
 3 client that you worked with -- strike that.  
 4 If you could explain how Abbott, through  
 5 the CHIP system or otherwise, would perform a billing  
 6 function for a client. Does that clarify?  
 7 A. Sure. I'll give you a scenario.  
 8 Q. Okay.  
 9 A. This would be for a client in the scenario  
 10 where they had their own pharmacy. They would  
 11 typically have someone, a couple people, responsible  
 12 for obtaining the initial order and referral for the  
 13 patient, referral and order. A scenario would be that  
 14 the information collected on the patient, such as  
 15 demographic information, patient insurance coverage,  
 16 patient diagnosis, what the order is would be faxed to  
 17 a department within the reimbursement group at Abbott  
 18 Park called the reimbursement screening group.  
 19 They would then do what they had to do  
 20 as best as they could to verify that, in fact, the  
 21 patient was covered by the insurance and that the  
 22 therapy would be covered and -- and that the -- yeah,  
 23 they would have knowledge of the contracts that the  
 24 client would have. This was -- this was a case where  
 25 claims would be billed in the name of the client

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1 because it was their business.  
 2 So, you know, a lot of these patients  
 3 would be covered by commercial insurance companies.  
 4 So they would have knowledge of managed care contracts  
 5 between the client provider group and insurance  
 6 company. So they would be looking at that, too, to  
 7 determine if this was an in network or an out of  
 8 network client, that sort of thing.  
 9 If it was Medicaid or Medicare, it would  
 10 be actually less complicated to do the verification  
 11 because they've got all the information they need  
 12 right there and they would know pretty much the -- for  
 13 Medicare, especially, the coverage criteria, which was  
 14 actually very limited.  
 15 And, in any event, that would be part of  
 16 the function in the reimbursement department to do  
 17 that type of screening, the document, the findings and  
 18 there would be both a paper file and some information  
 19 would be entered in the CHIP system at that point.  
 20 And, actually, the first information on the CHIP  
 21 system would be entered by the client's pharmacy  
 22 group.  
 23 Q. Okay.  
 24 A. Assuming that everything makes it through  
 25 that process and the client accepts the patient, which

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1 was not always the case, but if the client takes the  
 2 patient on-board, then ultimately the order would  
 3 be -- if it hadn't been received, it would be  
 4 received. That would be considered to be a  
 5 prescription, one or more, by the client's pharmacy  
 6 that would be entered into the computer system. The  
 7 necessary supplies and equipment for providing the  
 8 therapy would be entered into the computer system and  
 9 then that -- those supplies and equipment would be  
 10 picked from the -- the warehouse that the pharmacy  
 11 would have nearby.

12 And the drugs would be prepared. Many  
 13 of them would be compounded in a clean, sterile  
 14 environment. Well, they all would be in a clean,  
 15 sterile environment, but many -- if there was any  
 16 manipulation of the drug, in other words, they would  
 17 be -- so the compounding would be done. The results  
 18 of, you know. That would be, essentially, set up in  
 19 the computer system as to what needed to be provided  
 20 in the elements, the compounded. Some of those drugs  
 21 were not compounded and it was more just picking and  
 22 shipping, but that would be in the system, too.

23 Then there would be a quality check in  
 24 the pharmacy by the pharmacist, as I understood it,  
 25 before the product would be delivered to the patient.

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1 And when the product was delivered,  
 2 there would be, actually, in the computer system - I  
 3 remember this, I'm amazed - something called a ship  
 4 confirm that would be done on the computer system.

5 MR. STETLER: You need a better life.

6 A. I can't believe I remembered this one. There  
 7 would be something to be done -- a function called a  
 8 ship confirm that would then, essentially, turn that  
 9 order into a completed order. There would be a  
 10 function in the system called an invoicing function  
 11 that would be done by reimbursement typically once a  
 12 day the next morning which would further turn the  
 13 record of that shipment into a sale.

14 The system would then have another  
 15 function called generating claims or claiming, as I  
 16 think we called it. That usually was done on cycles,  
 17 depending on the payor, but for Medicare my  
 18 recollection is that for most payors we did it once a  
 19 month. We would just do this function called  
 20 generating claims. And that would be reimbursement  
 21 that would do that through the computer system.

22 At that point -- and this changed over  
 23 time as we improved, enhanced the system as to exactly  
 24 how much was manual and how much was automated by the  
 25 system, but -- but the claim would be on the system.

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1 There would be some -- there would certainly be a  
 2 review by the reimbursement specialist or a typical  
 3 reimbursement specialist had a reimbursement clerk, we  
 4 call them, one or two, or technician I think we called  
 5 them later, reporting to them. Somebody in that group  
 6 would be doing a review of the claim to -- as best as  
 7 they could to ensure the quality control of it.

8 When that was completed then if it was a  
 9 printed claim, the computer system would print the  
 10 claim. It would then be mailed in an envelope to the  
 11 payer. If it was an electronic claim, which it was to  
 12 Medicare in the -- you know, most of my period there,  
 13 at least, we were able to do that electronically, so  
 14 it would be a computer-to-computer transmission to the  
 15 Medicare contractor for a Medicare claim.

16 On some Medicaid claims there would be a  
 17 capability to -- and, actually, I think even some  
 18 commercial claims, I remember one, that would be  
 19 capability to -- for the reimbursement clerk to rekey  
 20 into another computer that would be provided by -- you  
 21 know, or computer access provided by the Medicaid or  
 22 plan or the contractor of the state or the commercial  
 23 health plan. So you would be taking paper -- a paper  
 24 claim from the CHIP system and rekeying it in to send  
 25 it in -- one way or the other the claim would be

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1 gotten to the payer.

2 It would be nice if the payers would all  
 3 pay you quickly and easily, but that did not always  
 4 happen and -- and it frequently didn't happen,  
 5 actually. So there would be a function that we called  
 6 follow up that many organizations actually call  
 7 collections as opposed to billing. What I've  
 8 described so far was essentially the billing process.

9 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

10 A. But the follow-up process would be that the  
 11 reimbursement specialist and/or clerks would have ways  
 12 to check on the status of the claims. And for many  
 13 payers they actually call them up on the phone and try  
 14 to get a person and wait on hold, depending on who the  
 15 payer was, and that sort of thing and, you know, where  
 16 is my claim? If it wasn't in -- if it hadn't come in  
 17 and we hadn't been paid in a certain amount of time.  
 18 My recollection is there were some payers that would  
 19 offer an electronic lookup of some sort that would be  
 20 of some help.

21 Sooner or later with a payer the claim  
 22 would come back either paid or denied or paid  
 23 incorrectly, partially paid. The actual money, I  
 24 think in most of those days, most of the time those  
 25 were paper checks and they would be mailed typically

9 (Pages 295 to 298)

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1 to a lockbox. Not all clients operated the same.  
 2 Some of them, I think, might have gone to a client  
 3 function, you know, actual street address of the  
 4 business.

5 There would -- from -- but, in any  
 6 event, you would get also as a part of that a  
 7 statement of what was paid called an explanation of  
 8 benefits. That would be applied on the CHIP system by  
 9 a group that had responsibility for cash applications.  
 10 Which, by the way, now that I'm recalling that, was a  
 11 function of the accounting department at Abbott Home  
 12 Infusion Services. So they had, essentially, clerical  
 13 people that were cash suppliers and they would be  
 14 matching up what they saw in an explanation of  
 15 benefits with what the CHIP system had opened as  
 16 accounts receivable for a claim. My best recollection  
 17 is some clients did their own cash application and I  
 18 don't think that was too many of them.

19 Meanwhile, the collectors would be  
 20 continuing to follow up, follow up, follow up for  
 21 those claims that were never paid. But when the cash  
 22 was applied, at the moment I'm not recalling exactly,  
 23 but somehow we knew that on the CHIP system and the  
 24 reimbursement group would determine if there needed to  
 25 be either re-billing because there was a mistake to

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1 the -- to the payer. If it all looked good and if  
 2 there was going to be a secondary insurance plan, then  
 3 they would go through a similar process of generating  
 4 what was called a secondary claim and repeat the whole  
 5 process again to get that payment.

6 And after that was done, on very rare  
 7 occasions, there might be a third payer. But in all  
 8 those situations the patient also might owe something  
 9 or might not owe something depending on the coverage.  
 10 And so there would be a billing to the patient that  
 11 would be done for any patient balance and the  
 12 reimbursement department would be responsible for  
 13 following up with the patient or family to get that  
 14 money.

15 And working with clients we had, you  
 16 know, ways sometimes of determining that it was a  
 17 hardship case and money shouldn't be collected.

18 And ultimately the paid claim, if --  
 19 when successful would be on the CHIP system. As I  
 20 recall there was a close function which said that the  
 21 claim was paid and either the claim would be paid as  
 22 was expected or might be a write-off, meaning that it  
 23 wasn't paid as originally had -- originally had been  
 24 expected, so there would be a balance that would be  
 25 told to the system, we just didn't collect this. And

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1 then it was an ongoing process.

2 Q. How would the -- once the funds were received  
 3 from, let's say, a payer like Medicare or Medicaid,  
 4 how would those then be distributed to the client?

5 A. If -- well, there were different models of  
 6 operation in the business relationships with clients.

7 Q. Okay.

8 A. The more typical one was a revenue share  
 9 relationship. If the finances were -- if the -- if  
 10 the -- if the claims were being submitted in the name  
 11 of the client -- let's say it's Ace Home Infusion.  
 12 Okay. So the claim had Ace Home Infusion on it when  
 13 it was sent to the payer. That money would then --  
 14 the check would be cut to Ace Home Infusion. That  
 15 money would then be deposited in the client's bank  
 16 through their lockbox process, whatever that was.

17 A revenue share arrangement was one  
 18 where it was essentially a percentage by therapy, as I  
 19 recall. And when the -- when the cash was applied,  
 20 meaning the system understood that the cash had been  
 21 received, then there was a report out of the CHIP  
 22 system -- I don't know what it was called, but I'll  
 23 call it a revenue sharing report or a cash collections  
 24 report, that would do a calculation of the money that  
 25 was applied, meaning considered to have been in the

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1 client's bank, and it would use the revenue sharing  
 2 percentages that were part of the contract between  
 3 Abbott and the client. And whatever that Abbott share  
 4 was would then be invoiced to the client. And I now  
 5 recall the reimbursement department did that  
 6 invoicing. And so a bill went to the client for the  
 7 client to pay. That's a scenario.

8 Q. Would the billing to the client ever reflect  
 9 charges for the costs of the individual drugs or  
 10 products provided by Abbott on a consignment basis to  
 11 the revenue share clients?

12 A. Not that I know of in that model.

13 Q. Did the CHIP system ever have any way to  
 14 record or monitor the cost of the product provided by  
 15 Abbott to the revenue share customer under these  
 16 revenue share agreements?

17 A. Oh, yes, I think it did.

18 Q. Okay. What -- what part of the system would  
 19 that be?

20 A. It would be hard to say. It would be -- I  
 21 guess I would call it the invoicing system, maybe.

22 Q. Okay.

23 A. So, you know, there was an item master file  
 24 that would have an opportunity to put a standardized  
 25 cost for any product.

10 (Pages 299 to 302)

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1 Q. And who would determine that standardized  
2 cost?  
3 A. The accounting department within Home  
4 Infusion Services. Now, we have to be careful here --  
5 Q. Okay.  
6 A. -- when I answer that. That would certainly  
7 be true for Abbott's own business when it was being  
8 billed by, you know, Abbott under the Abbott Home  
9 Infusion Services and it was Abbott's pharmacy.  
10 Q. Okay.  
11 A. Okay. How that worked and who was  
12 responsible for that when it was this client model  
13 that I had just described, actually, I think you'd  
14 have to ask someone else.  
15 Q. Okay. Who would I ask?  
16 A. Probably Abbott's accounting department.  
17 Q. Do you know someone in Abbott's accounting  
18 department who could --  
19 A. Jim Watson would know that.  
20 Q. Jim Watson. Okay. Now, the process that you  
21 just described, which -- which I appreciate your  
22 detail because, frankly, it has helped condense a lot  
23 of questions.  
24 A. Does that mean we'll save time here?  
25 Q. Was that basically the same process that was

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1 used for billing by Abbott, by services provided by  
2 Abbott pharmacies?  
3 A. Ask me that again in another way.  
4 Q. Okay.  
5 A. Oh, oh, I'm sorry. You mean was the process  
6 the same if it was an Abbott patient as opposed to an  
7 Ace Home Infusion patient?  
8 Q. Correct. Correct.  
9 A. Oh, yeah. Yeah. It would be very similar  
10 except that there wouldn't be that --  
11 (Brief interruption)  
12 MR. STETLER: Hello.  
13 MS. MOORE: Hi, this is Margaret Moore.  
14 MS. ST. PETER-GRIFFITH: Hi, Margaret.  
15 MR. STETLER: Sorry to interrupt, but it  
16 was coming in.  
17 MS. ST. PETER-GRIFFITH: That's okay.  
18 MS. MOORE: Thank you.  
19 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you  
20 could --  
21 MR. STETLER: You're missing a good  
22 time, Margaret.  
23 MS. MOORE: Great.  
24 A. It would be very similar. If it was truly an  
25 Abbott patient, meaning Abbott just took it from any

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1 referral source that was within -- coming into Abbott,  
2 there would be no revenue share portion of them.  
3 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  
4 A. To the best of my recollection, we would have  
5 had some cases where Abbott was performing under  
6 contract. You know, just as Abbott was a billing  
7 service, Abbott was the pharmacy for clients. Best of  
8 my recollection, there were revenue shares on that.  
9 So the patient would be serviced by an Abbott  
10 pharmacy.  
11 My recollection of that is that there  
12 would be -- in some of those cases the bills would be  
13 sent out under the name of the client. And if you  
14 came back and showed me something differently on that,  
15 quite frankly, my memory is somewhat hazy there.  
16 Q. Okay.  
17 A. But my recollection, again, on that sort of  
18 relationship is there would have been, in a typical  
19 scenario, a revenue share on that basis, too.  
20 Q. Okay. So we've got, basically, three  
21 different models. We've got the Abbott pharmacies  
22 themselves. We have the revenue share customers and  
23 then we have that sort of I'll call hybrid customer.  
24 Is that fair enough?  
25 A. There's more than that.

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1 Q. Okay. Who else? That's what I want to  
2 get -- drill down to.  
3 A. Well, there were some customers, at least one  
4 that I can remember, that we did not do a revenue  
5 sharing arrangement. We -- Abbott actually did  
6 provide an accounting to them and an invoice for the  
7 product by product that was used. The one that I'm  
8 recalling was out of the -- out of the Abbott  
9 California pharmacy at the time.  
10 Q. Do you recall --  
11 A. So it wasn't a revenue share arrangement.  
12 Q. Okay. Do you --  
13 A. And those products might have been Abbott  
14 products, but they might not have been, too.  
15 Q. Do you recall who that was?  
16 A. Yeah. That was Cedars-Sinai at their home  
17 infusion business.  
18 Q. Okay.  
19 A. So that was another model.  
20 Q. What other models can you think of?  
21 A. Well, Abbott did not do reimbursement for all  
22 clients. You know, we -- the business unit offered a  
23 package of services to clients. You know, they were  
24 customized. That was part of the strength of serving  
25 the clients. This was a service business, so you did

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1 a lot of different things depending on what the  
2 client's needs were. So there were -- there were a  
3 number of customers that just used the CHIP system and  
4 did everything themselves. So that would be another  
5 model.

6 Q. Would they license the CHIP system from  
7 Abbott?

8 A. Yes.

9 Q. What was the cost of the licensure, do you  
10 recall?

11 A. No.

12 Q. Would there be any clients of other business  
13 units within the Hospital Products Division that would  
14 utilize the CHIP system, like an HBS client?

15 A. Huh-uh.

16 Q. Okay.

17 A. That was a no. At least not that I knew of.

18 Q. Okay. Was there a way on the CHIP system to  
19 monitor estimated acquisition cost?

20 MR. COLE: Object to the form.

21 A. You could run -- one report, I remember the  
22 gross sales report, had an option to run costs and it  
23 would have included an estimated acquisition cost  
24 using that standard cost that I had talked about.

25 Q. (BY MS. ST. PETER-GRIFFITH) Let me back up.

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1 How would you define "estimated acquisition cost"?

2 MR. COLE: Object to the form.

3 A. Quite literally I would define it as being  
4 the accounting department, or whoever was responsible,  
5 depending on the business relationship. Put a data  
6 field into the cost area of the item record and  
7 inventory file reflecting whatever the item was that  
8 was a cost and I would define your estimated  
9 acquisition cost as being just a total of which is --  
10 which is times cost. There's the figure.

11 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Was  
12 estimated acquisition cost a term that was utilized in  
13 the reimbursement area?

14 A. No. Actually, the reimbursement department,  
15 at least as my level as supervisor and below, we -- we  
16 weren't involved with cost at all.

17 Q. Did the CHIP system have a way to identify  
18 any discounts that either Abbott realized or Abbott's  
19 customers realized on the cost -- on the products that  
20 were provided to Abbott's customers or distributed  
21 through Abbott's customers?

22 MR. COLE: Object to the form.

23 A. Abbott's customers being Ace Home Infusion?

24 Q. (BY MS. ST. PETER-GRIFFITH) Yes, as an  
25 example.

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1 A. Well, in the typical scenario we talked about  
2 a revenue share, so there was an agreement of a  
3 revenue share percentage. So for the products that --  
4 you know, the products were consignment inventory and  
5 to the best of my knowledge remuneration was through  
6 the revenue share arrangement. That doesn't translate  
7 directly into any sort of discount that I can think  
8 of.

9 Q. Okay. Does the CHIP system have a way to  
10 notify the third-party payers, including Medicare or  
11 Medicaid, of the fact that the revenue share customers  
12 did not pay for the product until after collections  
13 were made?

14 A. No.

15 Q. Was that something that anybody discussed in  
16 discussions about the development of the CHIP system?

17 A. Never that I was aware.

18 Q. Was there ever any concern about needing to  
19 report discounts to third-party payers, including  
20 Medicare or Medicaid, upon products provided -- I'm  
21 sorry, products purchased by the revenue share  
22 customers or other Abbott customers and provided to  
23 patients?

24 MR. COLE: Object to the form.

25 A. Discounts to the Ace Home Infusion, the

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1 client entity?

2 Q. (BY MS. ST. PETER-GRIFFITH) Correct.

3 A. Never any discussion that I was aware of.

4 Q. Why not?

5 MR. COLE: Object to the form.

6 A. The best I could say is I never thought about  
7 it personally, so I can't answer that.

8 Q. (BY MS. ST. PETER-GRIFFITH) For products  
9 like Vancomycin, which has a straight J code  
10 billing --

11 A. Uh-huh.

12 Q. -- on a HCFA 1500 form, what would the  
13 reported charge be for Vancomycin for a revenue share  
14 customer?

15 A. Depends on the payer.

16 Q. Of Medicare.

17 A. It would be billed at -- there's different  
18 terms for this. Usual and customary, a list price,  
19 usual charges. It would be -- it would be -- on the  
20 claim it would be submitted at your -- you know, think  
21 of list price as if there was not a contract between a  
22 payer and a provider or an agreement of some sort to  
23 provide anything -- any sort of discount to your -- to  
24 your list price, then your claim would have your list  
25 price on it.

12 (Pages 307 to 310)

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<p>1 To Medicare the claim would have the</p> <p>2 list price. The list price would be set in the</p> <p>3 computer system and so there would be a price times</p> <p>4 the number of units to give you a total price for the</p> <p>5 units used during the time period of the claim.</p> <p>6 Q. What price would be used for Abbott</p> <p>7 pharmacies?</p> <p>8 A. That was not my responsibility and I don't</p> <p>9 have knowledge of how that pricing was done.</p> <p>10 Q. Okay. Would the -- would the J code for</p> <p>11 Vancomycin on a HCFA 1500 form ever be billed by the</p> <p>12 reimbursement department in Home Infusion for the AWP?</p> <p>13 A. To what payer?</p> <p>14 Q. Medicare.</p> <p>15 A. No.</p> <p>16 Q. Why?</p> <p>17 A. Well, with the qualification that I was not</p> <p>18 involved in the establishment of the list price --</p> <p>19 Q. Okay.</p> <p>20 A. -- I have no knowledge of that. So if they</p> <p>21 were AWP's, it could have been, but I'm not aware of</p> <p>22 that.</p> <p>23 Q. Okay. Who -- who would have been involved in</p> <p>24 setting a list price?</p> <p>25 A. It could have either -- have been the client,</p>	<p>1 did Abbott's Home Infusion unit have any publications</p> <p>2 concerning the False Claims Act?</p> <p>3 A. Not at my level and, therefore, not below my</p> <p>4 level.</p> <p>5 Q. Okay. When you say "not at your level," do</p> <p>6 you mean not that you're aware of or not that you had</p> <p>7 access to?</p> <p>8 A. Not that I'm aware of and I -- if anybody was</p> <p>9 looking at that, it was higher level management.</p> <p>10 Q. Who would that have been?</p> <p>11 A. Well, in reimbursement that would have been</p> <p>12 Virginia Tobiasson.</p> <p>13 Q. Did anyone --</p> <p>14 A. Possibly Mike Snouffer because he</p> <p>15 essentially -- he succeeded her when she left.</p> <p>16 Q. Okay. Did anyone at any point raise concerns</p> <p>17 about whether or not the billing practices of the</p> <p>18 reimbursement department within home infusion, either</p> <p>19 for the revenue share customers or for Abbott's own</p> <p>20 pharmacies, were violating the False Claims Act?</p> <p>21 A. No, not that I'm aware of.</p> <p>22 Q. Do you know whether anyone ever did an</p> <p>23 evaluation of that question?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. Sir, what I would like to do next is to start</p>
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<p>1 because it was their business, or it could have been</p> <p>2 that the client had, you know, a services system from</p> <p>3 Abbott in establishing the list price, or if it was</p> <p>4 Abbott's business, rather than the client's business,</p> <p>5 it would definitely be Abbott. And to the best of my</p> <p>6 knowledge that responsibility was operationally done</p> <p>7 by the accounting department within Home Infusion</p> <p>8 Services.</p> <p>9 Q. Did the reimbursement department have any</p> <p>10 concerns about overbilling Medicare or Medicaid for</p> <p>11 drugs at -- who were -- that were priced at a certain</p> <p>12 level, but actually purchased or provided at a much</p> <p>13 lower discounted level?</p> <p>14 MR. COLE: Object to the form.</p> <p>15 A. Not that I'm aware of.</p> <p>16 Q. (BY MS. ST. PETER-GRIFFITH) Did the Abbott</p> <p>17 Home Infusion unit have any guidance on Medicare fraud</p> <p>18 or abuse in the form of a written policy?</p> <p>19 A. I would say no, actually.</p> <p>20 Q. Okay. Do you know if any other business</p> <p>21 units within Abbott had written policies on Medicare</p> <p>22 and Medicaid fraud and abuse?</p> <p>23 MR. COLE: Object to the form.</p> <p>24 A. I do not know.</p> <p>25 Q. (BY MS. ST. PETER-GRIFFITH) Do you know --</p>	<p>1 going over some of the manuals. Can you just give me</p> <p>2 just one second?</p> <p>3 A. Absolutely.</p> <p>4 Q. Did anyone ever at any time raise with you or</p> <p>5 anyone else, to your knowledge, in the reimbursement</p> <p>6 department, the legal propriety of billing at these</p> <p>7 list prices through the reimbursement Home Infusion</p> <p>8 department?</p> <p>9 MR. COLE: Object to the form.</p> <p>10 A. Not that I can recall.</p> <p>11 Q. (BY MS. ST. PETER-GRIFFITH) Why don't we</p> <p>12 start with the first book, which is -- that I have is</p> <p>13 the Case Management Training Manual.</p> <p>14 A. Uh-huh.</p> <p>15 Q. Sir, what can you tell me about this manual?</p> <p>16 A. Let me breeze through it.</p> <p>17 Q. Okay. Well, first, before you do that, I</p> <p>18 would like to ask, is this a manual that you used?</p> <p>19 A. No.</p> <p>20 Q. Okay. Who used it?</p> <p>21 A. The Contract Marketing group would have used</p> <p>22 this.</p> <p>23 Q. Did you have any --</p> <p>24 A. I say that subject to if I see something in</p> <p>25 here, but I think that's right.</p>

13 (Pages 311 to 314)

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1 Q. Okay. Then I want you to take some time to  
2 go over it.  
3 A. Uh-huh.  
4 Q. Did you at any time, that you can recall,  
5 ever utilize this document?  
6 A. I actually can't recall that I would have  
7 used this document.  
8 Q. Did you keep it in your office? Did you have  
9 a copy of it in your office?  
10 A. No, I don't believe so.  
11 Q. Do you know where you got this copy from when  
12 you left?  
13 A. Yes. We had -- closing the business we -- I  
14 was one of the last people there and we -- we had some  
15 days to dispose of materials and -- did I explain last  
16 time why I kept some of these materials?  
17 Q. Yes, I believe you did.  
18 A. And I think -- and the reason was that I knew  
19 that I was staying in the home infusion business. I  
20 was not sure exactly what I was going to be doing and  
21 it might have included some consulting and I thought  
22 for personal use in consulting, or whatever, that I  
23 might find some value of certain things and this  
24 looked like an interesting manual, so it's one that I  
25 decided to keep.

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1 Q. Okay. Let me ask you. You said when they  
2 closed Home Infusion you were involved in the disposal  
3 of materials?  
4 A. Uh-huh.  
5 Q. What do you mean?  
6 A. Literally there were a lot of materials  
7 around that the business unit was shutting down.  
8 Q. Okay.  
9 A. And my recollection is that we -- we threw a  
10 lot of documents out.  
11 Q. Who is "we"?  
12 A. Well, myself, and others that were still  
13 there at the time.  
14 Q. Do you recall which documents you threw out?  
15 I know this is a memory game.  
16 A. Absolutely not.  
17 Q. You don't?  
18 A. No.  
19 Q. Okay. Do you recall the volume of documents  
20 that you threw out?  
21 A. Not really.  
22 Q. Do you know whether or not -- when was this?  
23 A. Oh, this would have been in the end of 2002  
24 and early 2003.  
25 Q. Do you know whether there were any litigation

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1 hold memos that concerned the materials that were  
2 being thrown out?  
3 A. I'm not aware of any.  
4 Q. At whose instruction did you throw out  
5 materials?  
6 A. I don't recall.  
7 Q. Was it something that you would have done on  
8 your own initiative?  
9 A. I would say no.  
10 Q. Okay. Who was -- when you were -- when Home  
11 Infusion was being closed out, who was your  
12 supervisor?  
13 A. Karla Kreklow.  
14 Q. Do you know whether Ms. Kreklow directed you  
15 to do anything with regard to disposal of materials?  
16 A. I don't recall that.  
17 Q. And did anyone ever advise you that there  
18 might be a litigation hold memorandum governing those  
19 materials that precluded their destruction?  
20 A. No.  
21 Q. Do you ever remember receiving a litigation  
22 hold memorandum?  
23 A. No, I don't remember. So I hope you're not  
24 going to show me one that has my name on it because I  
25 don't remember it.

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1 Q. Were there any written instructions that were  
2 generated concerning how to dispose of the materials?  
3 A. Not that I recall.  
4 Q. Do you remember how they were physically  
5 disposed of?  
6 A. My recollection is -- well, I don't  
7 specifically remember shredding anything, so I think  
8 we just pitched them.  
9 Q. "Pitched them" meaning put them in the  
10 garbage?  
11 A. Garbage, recycle.  
12 Q. Okay. Was there any policy concerning  
13 whether or not these were confidential materials?  
14 A. The confidential materials that we would have  
15 focused on would have been patient confidential  
16 information. Is that what you're asking?  
17 Q. No. I want to know with regard to the  
18 materials that you were just throwing away, was there  
19 any -- did you -- were you aware of any concerns about  
20 confidentiality?  
21 A. I don't -- I don't really have any  
22 recollection of that. I can certainly say that had  
23 there been any patient specific materials that would  
24 have been recognized, we would not have just thrown  
25 those away. I don't really recall if there was any

14 (Pages 315 to 318)

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<p style="text-align: right;">Page 319</p> <p>1 sort of that patient data that was part of what was  2 being thrown away anyway. Beyond that, I don't recall  3 any confidentiality whatsoever.  4 Q. Do you know what -- for -- for the documents  5 that were being thrown away --  6 A. Uh-huh.  7 Q. -- do you know what portions of the business  8 unit those documents included?  9 MR. COLE: Object to the form.  10 A. Other than what I've turned over here, no.  11 Q. (BY MS. ST. PETER-GRIFFITH) Okay. So is it  12 fair to say that some of the Contract Marketing  13 materials may have been disposed of --  14 MR. COLE: Object to the form.  15 Q. (BY MS. ST. PETER-GRIFFITH) -- when Home  16 Infusion closed?  17 MR. COLE: Same objection.  18 A. You know, I don't have any recollections to  19 speak of. I think it's fair to say here's one that  20 wasn't disposed of that would have been had I not  21 decided to keep it.  22 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  23 Meaning -- and you're pointing to the Case Management  24 Training Manual?  25 A. I am.</p>	<p style="text-align: right;">Page 321</p> <p>1 the threshold for confidentiality under the terms of  2 the protective order. We can reassess. You know,  3 after the deposition I can let you know if our  4 position has changed, but right now we're -- we're not  5 willing to withdraw the confidentiality designation --  6 MS. ST. PETER-GRIFFITH: Okay. Even  7 though --  8 MR. COLE: -- that appears on the  9 documents.  10 MS. ST. PETER-GRIFFITH: Even though  11 this goes back to 1998?  12 MR. COLE: Yes.  13 MS. ST. PETER-GRIFFITH: Okay.  14 Q. (BY MS. ST. PETER-GRIFFITH) Sir, do you have  15 any idea who drafted this document?  16 A. May I look through it?  17 Q. Sure. Absolutely. Go ahead.  18 MS. ST. PETER-GRIFFITH: Why don't we go  19 off the record for a few minutes, is that okay --  20 THE VIDEOGRAPHER: We are off the --  21 MS. ST. PETER-GRIFFITH: -- while he  22 does that?  23 THE VIDEOGRAPHER: We are off the record  24 at 10:22 a.m.  25 (Recess from 10:22 to 10:32)</p>
<p style="text-align: right;">Page 320</p> <p>1 Q. Okay. Well, we are going over that right  2 now. Let me ask you, were you consulted concerning  3 the confidentiality designation of any of the  4 documents that you produced?  5 A. No.  6 Q. This document has at the bottom, it says  7 "Highly Confidential." Do you see that?  8 A. I do.  9 Q. And every page, just about, in this -- in  10 this document is marked highly confidential. Do you  11 see that?  12 A. I do.  13 Q. Were you at all consulted on that  14 confidentiality designation?  15 A. Well, that label was not on here when I  16 turned the documents over for the subpoena.  17 MS. ST. PETER-GRIFFITH: Let me just ask  18 counsel for Abbott. Are you continuing to maintain  19 your highly confidential designation of this material?  20 MR. COLE: Yes.  21 MS. ST. PETER-GRIFFITH: Okay. What's  22 the Rule 11 sustainable basis for doing that?  23 MR. COLE: Well, we can take this up  24 offline, but at this point in time we're not willing  25 to withdraw and I believe that the materials satisfy</p>	<p style="text-align: right;">Page 322</p> <p>1 THE VIDEOGRAPHER: We are back on the  2 record at 10:32 a.m. with the start of Tape Number 2.  3 MS. ST. PETER-GRIFFITH: Mr. Robertson,  4 before we get going, I'd just like to have -- we were  5 joined by Margaret -- oh, I am sorry. Gosh. I am  6 very sorry. It's been a long week already.  7 Mr. Rodman, before we get going, we were  8 joined by Margaret Moore from Texas and I would just  9 like to give her the opportunity to enter her  10 appearance on the record.  11 MS. MOORE: Thank you. Margaret Moore  12 representing the State of Texas.  13 Q. (BY MS. ST. PETER-GRIFFITH) When you  14 participated in this sort of disposal of the Home  15 Infusion materials, Home Infusion business unit  16 materials, do you recall who else participated?  17 A. I really don't.  18 Q. Is it fair to say or would it be fair to say  19 that the materials that you've sort of produced and --  20 and retained for yourself, are those the only copies  21 of these documents that remain, to your knowledge?  22 A. I wouldn't know.  23 Q. Okay. What I would like to do is go over a  24 few pages of the -- of the Case Management Training  25 Manual that's in front of you there.</p>

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1 A. Okay.  
 2 Q. Okay?  
 3 A. Uh-huh.  
 4 Q. First, do you know what -- do you know  
 5 what -- actually, before -- before we move on to this  
 6 particular document.  
 7 Do you have a recollection of the types  
 8 of materials that were -- that were tossed, that were  
 9 thrown away?  
 10 A. Not really.  
 11 Q. When you closed up your office and left, did  
 12 you throw away any materials that you were  
 13 maintaining?  
 14 A. I would think I did.  
 15 Q. Do you know -- do you recall what they might  
 16 have been?  
 17 A. No.  
 18 Q. Do you recall at any time ever being  
 19 concerned about violating a litigation hold memo by  
 20 tossing materials?  
 21 A. No.  
 22 Q. Do you know what the Contract Marketing group  
 23 used the Case Management Training Manual for?  
 24 A. Not specifically.  
 25 Q. Do you know whether Shellie Bronson helped

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1 develop it?  
 2 A. Not specifically. I don't know that.  
 3 Q. Okay. Well, what do you know?  
 4 A. Well, I know that this was compiled by the  
 5 Contract Marketing department and I know who the  
 6 likely people would be.  
 7 Q. Who would they be?  
 8 A. Shellie Bronson would be one.  
 9 Q. Okay.  
 10 A. Lynn Leone would be another.  
 11 Q. Okay.  
 12 A. This was 1998. There were a couple other  
 13 people there. Chris Herden is a name that I remember.  
 14 Dave Brincks was the manager during much of that time.  
 15 He might have had some involvement. It's possible I'm  
 16 forgetting some people.  
 17 Q. Okay.  
 18 A. Chris Alex might have been another.  
 19 Q. Okay.  
 20 A. A-l-e-x, I think.  
 21 Q. Let me ask you, do you know -- have you kept  
 22 in contact with Shellie Bronson?  
 23 A. Socially, yes.  
 24 Q. Where is she located?  
 25 A. Sun Valley, Ketchum, Idaho.

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1 Q. Ketchum, Idaho?  
 2 A. Well, it's -- yeah, Sun Valley, Idaho.  
 3 Idaho.  
 4 Q. And do you happen to have her address or know  
 5 her address?  
 6 A. No.  
 7 Q. Okay. How do you keep in touch with her  
 8 socially?  
 9 A. E-mail, speak to her every once in a while.  
 10 Visit -- visited twice for ski trips.  
 11 Q. Do you know what her e-mail address is?  
 12 A. I have it. I don't know what it is.  
 13 Q. Okay. I have to tell you, we might be asking  
 14 Mr. Stetler to get that from you because apparently  
 15 Abbott is -- or Jones Day is having some difficulty  
 16 locating her.  
 17 Okay. The first page I would like to go  
 18 over with you is on -- if you could just take the  
 19 manual. It's 721.  
 20 MR. STETLER: And before I get -- and  
 21 while they're shuffling that, don't you call her.  
 22 Okay? If they need it, you'll give it to me and I'll  
 23 give it to them. Don't do anybody any favors.  
 24 THE WITNESS: I'm sure Shellie will be  
 25 glad to meet you, Dave.

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1 MR. STETLER: She's in Ketchum, Idaho.  
 2 I'll be glad to meet her. You don't need any more  
 3 Fort Myers in the summer though.  
 4 THE WITNESS: Do the deposition there.  
 5 MS. THOMAS: Hey, you didn't even go to  
 6 Allentown, so ...  
 7 MR. STETLER: Well, I don't need that at  
 8 any time of the year.  
 9 Q. (BY MS. ST. PETER-GRIFFITH) Sir, do you know  
 10 what this is, "Negotiation Parameters" and  
 11 "Negotiation Allowables"?  
 12 MR. COLE: What page are we on?  
 13 MS. ST. PETER-GRIFFITH: 721.  
 14 MR. COLE: Thank you.  
 15 A. Well, right here, this is an outline and  
 16 it's -- it is most likely a document that was used  
 17 to -- or at least used to train. I'm not looking at  
 18 the rest of the page yet.  
 19 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  
 20 A. At that time quite a few of the patients that  
 21 would be accepted for service were not accepted under  
 22 a managed care contract between healthcare provider  
 23 and the health plan, but -- and I'm talking commercial  
 24 insurance now, but rather what was very common at that  
 25 time was there would be an individual, what was called

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1 case management negotiation, to determine that the  
2 pricing that the client or it was an Abbott patient,  
3 but the pricing for the purpose of the claim and the  
4 billing and the reimbursement that would be agreed  
5 upon on an individual patient case basis. And this  
6 document was probably used either as a -- well,  
7 certainly as a training book, because it was labeled  
8 training, so let's just say for, at least, a training  
9 document for the purpose of those types of  
10 negotiations that would be with commercial insurance.

11 Q. This would be with commercial insurance?

12 A. Yes.

13 Q. Okay. At the bottom -- at the very bottom it  
14 says LL/CsMgtBk. Do you see that?

15 A. Uh-huh.

16 Q. Does that give you any indication as to who  
17 might have been involved in the drafting?

18 A. My best guess is LL would be Lynn Leone.

19 Q. Okay. Do you know whether she would put  
20 together materials and put her initials, LL? Are you  
21 familiar with that?

22 A. Well, this is most likely -- in your footer  
23 it's most likely the name of a file where it was kept  
24 on your PC and so -- I used to do that all the time  
25 myself. So this is probably a mechanism that either

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1 case management had -- or Contract Marketing had or  
2 she had to identify the file name for this piece of  
3 paper and anything else that was, perhaps, within that  
4 piece of paper.

5 Q. Okay. If you could next go to Page 729.

6 A. Uh-huh.

7 Q. And I'm going to direct your attention where  
8 it says "Vancomycin" -- first of all, it says at the  
9 top "Home Infusion Services Standard Prescription for  
10 Antibiotics." Do you see that?

11 A. Uh-huh.

12 Q. And then at the head -- for the headings it  
13 says "Usual & Customary" with an asterisk?

14 A. Uh-huh.

15 Q. And Vancomycin and the price under usual and  
16 customary is \$270.49. Do you see that?

17 A. I do.

18 Q. Do you know how that number was arrived at?

19 A. No.

20 Q. Who would have been responsible for  
21 identifying the usual and customary for the Vancomycin  
22 antibiotic?

23 A. Well, as I had explained earlier, the setting  
24 of your usual and customary prices in the -- for  
25 the -- well, in this case for Vancomycin, was a

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1 function that would have been done either by the Home  
2 Infusion Services accounting department and -- do I  
3 know that -- I may want to -- I may want to -- I think  
4 I need to retract that.

5 Q. Okay.

6 A. It would either have been between the  
7 accounting department or the case management -- the  
8 Contract Marketing department or the client that would  
9 set -- establish that list price.

10 And what I believe this would have -- as  
11 a -- essentially a compilation of all of the products  
12 involved for the provision of Vancomycin for  
13 Vancomycin therapy. So it would be -- I believe it  
14 would be more than just the drug. It would be -- it  
15 would be all of the infusion administration supplies  
16 and the equipment that were part of that. And this is  
17 a compilation using those usual and customary prices,  
18 a hypothetical, apparently one gram of Vancomycin  
19 provided every 12 hours with a usual and customary  
20 price.

21 Q. Okay. Let me ask you, when you use the term  
22 "list price" --

23 A. Uh-huh.

24 Q. -- are you talking about Abbott's list price,  
25 its catalog price --

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1 A. No.

2 Q. -- or are you talking about something  
3 different?

4 A. I'm talking about the list price that was  
5 determined and placed in this product master file,  
6 item file we called it --

7 Q. Okay.

8 A. -- for every item that was provided as part  
9 of the service.

10 Q. So you're talking about the price that's  
11 identified in the CHIP system under the item file?

12 A. Yes.

13 Q. Okay. Let me ask you, for Abbott pharmacies,  
14 would the list price be Abbott's catalog price?

15 A. I have no knowledge of that.

16 Q. Okay. Who would determine that, Contract  
17 Marketing?

18 A. It would either be Contract Marketing or  
19 Accounting.

20 Q. Okay. If you could go to Page 757, please.  
21 And I would like you to look at 757, 758 and 759.

22 A. Okay.

23 Q. Do you recognize this document?

24 A. I'm not sure how to answer that. It's a --  
25 it's a document that seems familiar to me now.

17 (Pages 327 to 330)

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<p style="text-align: right;">Page 331</p> <p>1 Q. It seems familiar to you now?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Do you know whether you were familiar with</p> <p>4 the procedures utilized for negotiating pricing?</p> <p>5 A. I was not, actually.</p> <p>6 Q. Okay. If you see under Item 4 and Item 5c --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- there's reference to AWP. Do you see</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know whether AWP was a price or was --</p> <p>12 was -- yeah, a number that was utilized by contract</p> <p>13 marketing in Home Infusion in negotiating their</p> <p>14 pricing?</p> <p>15 MR. COLE: Object to the form.</p> <p>16 A. This would indicate that that was the case.</p> <p>17 Again, these would be for commercial insurance</p> <p>18 companies.</p> <p>19 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>20 A. And, yes, that is my belief.</p> <p>21 Q. Okay. So AWP, then, was a number that was</p> <p>22 utilized by Home Infusion?</p> <p>23 MR. COLE: Object to the form.</p> <p>24 A. We just talked about a way it was utilized,</p> <p>25 so yes.</p>	<p style="text-align: right;">Page 333</p> <p>1 A. I was familiar with these -- what were called</p> <p>2 price schedules, yes.</p> <p>3 Q. Okay. If you could look at the box, at the</p> <p>4 first box. Do you see that? It looks like it's a --</p> <p>5 it's a reflection of a computer screen --</p> <p>6 A. Yes.</p> <p>7 Q. -- is that accurate?</p> <p>8 A. Yes.</p> <p>9 Q. What does "List Pct" mean? Do you see where</p> <p>10 it says "Pricing Details"?</p> <p>11 A. List -- well, I believe that that would mean</p> <p>12 list percent and -- percentage. For list price</p> <p>13 percentage. I believe that's what that would be.</p> <p>14 Q. Okay. What does "AWP Pct" mean?</p> <p>15 A. In fact, it explains it right above.</p> <p>16 Q. Okay.</p> <p>17 A. "Pricing should reflect 75% of the list price</p> <p>18 therefore you enter" five -- "enter 75 into the 'pct'</p> <p>19 field."</p> <p>20 Q. Okay. And this is for Price Code B?</p> <p>21 A. It would appear so.</p> <p>22 Q. Do you know what Price Code B was?</p> <p>23 A. A price code that could do the things that</p> <p>24 are explained --</p> <p>25 Q. I see.</p>
<p style="text-align: right;">Page 332</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) Okay. The next</p> <p>2 item that I would like to go -- or the next page is</p> <p>3 773, please.</p> <p>4 A. Okay.</p> <p>5 Q. Do you see -- this is a price schedule</p> <p>6 document?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Are you familiar with any of the price</p> <p>9 scheduling by Contract Marketing?</p> <p>10 A. Well, what this is is actually a document</p> <p>11 that explains how to set up pricing in the CHIP</p> <p>12 system. I don't know who would have written it, but</p> <p>13 that's what this is. So in this case whoever within</p> <p>14 contract marketing had compiled this book, they got</p> <p>15 this document that is essentially saying how to use</p> <p>16 the CHIP system. And they could have written it,</p> <p>17 actually, because we sort of had a team spread amongst</p> <p>18 the management to write documentation over the years</p> <p>19 for the CHIP system. Like user documentation. Okay.</p> <p>20 So they might have written it and it wouldn't surprise</p> <p>21 me, but they might not have either.</p> <p>22 Q. Could you have written it?</p> <p>23 A. I don't recall writing this one.</p> <p>24 Q. Okay. Are you familiar with how to enter</p> <p>25 pricing into the CHIP system?</p>	<p style="text-align: right;">Page 334</p> <p>1 A. -- in this manual.</p> <p>2 Q. So you punch in the -- on the CHIP system you</p> <p>3 would punch in -- punch in the price code and you put</p> <p>4 B and it would have this information?</p> <p>5 A. Okay. Let's back up here.</p> <p>6 Q. Okay.</p> <p>7 A. Price codes were used to build into the</p> <p>8 invoicing function in the CHIP system, which was where</p> <p>9 you turned a ship confirm into a sale and then to</p> <p>10 build into the generation of the claim to ultimately</p> <p>11 be filed with the health plan. Price codes were an</p> <p>12 automated way of -- of getting the booking of sales</p> <p>13 and the dollars shown on the claim to reflect an</p> <p>14 agreement, which would either be one of these</p> <p>15 individual case management per -- per patient case</p> <p>16 negotiations or a contract between the home infusion</p> <p>17 company and a commercial health plan. And there was a</p> <p>18 lot -- there were a lot of capabilities built into</p> <p>19 this what was called price schedules. That's why</p> <p>20 there's A, B, C, whatever --</p> <p>21 Q. Okay.</p> <p>22 A. -- and they did different things. And so</p> <p>23 we're looking at an example of one that happens to be</p> <p>24 price -- it's called Price Code B, but it's really</p> <p>25 Price Schedule B. You could assign this to</p>

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<p style="text-align: right;">Page 335</p> <p>1 essentially a patient therapy. The therapy might be 2 antibiotic therapy versus total parenteral nutrition 3 therapy versus a whole bunch of others. And so there 4 would be some automation of the CHIP system to adjust 5 the price to be booked for revenues and the -- to 6 adjust the charges that would be shown on the claim 7 for payers where there was this type of an agreement. 8 That's what this is. 9 Q. Okay. If you could flip to the next page. I 10 believe it's 774. 11 A. Uh-huh. 12 Q. Now, this is for Price Code C, correct? 13 A. Yes. 14 Q. Okay. And it says "Other Criteria." Down 15 under "Other Criteria" it says "AWP can be 16 designated." Do you see that? 17 A. I do. 18 Q. What does that mean? 19 MR. COLE: Object to the form. 20 A. I can only tell you what I'm seeing here. I 21 think it means that you can specify that in the 22 pricing of this claim that there was a provision to 23 use the AWP in the CHIP system for the drug in order 24 to determine that price that would ultimately be 25 submitted to the insurance company.</p>	<p style="text-align: right;">Page 337</p> <p>1 Q. Okay. 2 A. -- for renegotiation. 3 Q. And then the client would just lose that -- 4 that revenue? 5 MR. COLE: Object to the form. 6 A. Well, if the AWP went down -- 7 Q. (BY MS. ST. PETER-GRIFFITH) Okay. 8 A. -- that would be the case. 9 Q. And would there also be -- if it's under a 10 revenue share agreement with Abbott, would that mean 11 that Abbott would similarly lose revenue? 12 MR. COLE: Object to the form. 13 A. If the AWP went down or the particular claim, 14 that would be the case. On the other hand, you know, 15 the contract may have a renegotiation point. So -- so 16 if outside factors, such as AWP, had some sort of 17 change, then when that contract was up for renewal, 18 depending on whether it was Abbott's contract 19 directly, which, frankly, I don't think -- I just 20 don't recall if there were any, or the client's 21 contract, there would always be an option by the 22 client or the insurance company to say, "We've got to 23 come back and negotiate." 24 Q. (BY MS. ST. PETER-GRIFFITH) Well, let me ask 25 sort of the converse of the questions that I just</p>
<p style="text-align: right;">Page 336</p> <p>1 Q. Okay. Let me ask you, in submitting claims 2 to the insurance company, if the prices were based 3 upon AWP and AWP, as published by Redbook or other 4 pricing compendia -- 5 A. Uh-huh. 6 Q. -- dropped or was reduced -- 7 A. Uh-huh. 8 Q. -- would that have an impact on collections 9 from third-party insurers? 10 MR. COLE: Object to the form. 11 A. Well, if the -- if the charges for the 12 insurance company were based upon AWP by contract or 13 by individual agreement, and the AWP changed, then 14 that would have a corresponding impact up or down 15 depending on what it was. 16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Would -- 17 would that mean that the Abbott customer would then 18 need to renegotiate with the insurance company the 19 amount of reimbursement or what would happen? 20 MR. COLE: Object to the form. 21 A. If the contract either for the individual 22 case management agreement or the master contract 23 between a commercial insurance company and the 24 provider was still valid, then there would be no 25 particular grounds for negotiation --</p>	<p style="text-align: right;">Page 338</p> <p>1 asked. 2 A. Uh-huh. 3 Q. If AWP went up -- 4 A. Uh-huh. 5 Q. And -- and either the large contracts with 6 the insurers or the individual case management 7 arrangements based pricing upon AWP -- 8 A. Uh-huh. 9 Q. -- would that mean when the AWP went up, that 10 the revenue collected by the revenue share partner 11 would similarly go up? 12 MR. COLE: Object to the form. 13 A. On that particular item, that's what that 14 would mean. 15 Q. (BY MS. ST. PETER-GRIFFITH) Okay. 16 A. At the same time, you know, historically I 17 can tell you that there has been a lot of ratcheting 18 of prices that have gone on on the home infusion 19 industry throughout the period of my tenure in it. 20 Q. Okay. 21 A. And so, you know, you're asking that question 22 on an individual situation with an individual contract 23 with an individual claim or series of claims, perhaps, 24 under the duration of the contract, yes, but these 25 prices have changed over the years. So in the</p>

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1 long-term you have to -- you have to consider what  
2 might have happened, too.

3 Q. Okay. Well, let me ask you just -- just in  
4 general. If pricing for -- by Contract Marketing and  
5 Home Infusion --

6 A. Uh-huh.

7 Q. -- was based upon AWP for these third-party  
8 insurers --

9 A. Uh-huh.

10 Q. -- and AWP went up, then wouldn't the revenue  
11 go up for the revenue share partners?

12 MR. COLE: Object to the form.

13 A. In the shorter term, yes --

14 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

15 A. -- in the context of what I just answered.

16 Q. Okay.

17 A. Uh-huh.

18 Q. And, similarly, there would be more revenue  
19 that would increase the amount that Abbott could  
20 collect as well.

21 A. Yes.

22 MR. COLE: Object to the form.

23 Q. (BY MS. ST. PETER-GRIFFITH) If you could go  
24 to Page 981. I'm skipping a couple hundred pages  
25 here, guys.

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1 A. I see that. Good. Okay.

2 Q. Okay. Do you see that this is a glossary?

3 A. It says that.

4 Q. Okay. Are you familiar with this glossary?

5 A. Not specifically, no.

6 Q. Okay. If you could look where it says "AWP."

7 A. Uh-huh.

8 Q. "Average wholesale price - used in drug  
9 pricing."

10 A. Uh-huh.

11 Q. "This is the manufacturers suggested retail  
12 charge." Did you have an understanding of what --  
13 that AWP meant what is reflected here?

14 MR. COLE: Object to the form.

15 A. I don't think during the time that I was  
16 involved in the reimbursement management that I had  
17 much of an understanding of what AWP really was.

18 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

19 A. I think I had said way upfront, whenever that  
20 was, a month ago, that, you know, I have been in this  
21 industry now a long time and I know quite a bit more  
22 now than I did then.

23 Q. Okay. Fair enough. What about -- do you see  
24 where it says "EAC - Estimated Acquisition Cost?"

25 A. Yes.

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1 Q. We touched upon that a little bit earlier  
2 today. Were you aware that contract marketing had a  
3 manual that had a glossary that -- that defined  
4 estimated acquisition cost?

5 A. I don't actually recall having seen this  
6 before --

7 Q. Okay.

8 A. -- even though I kept it.

9 Q. Did you have any understanding as to any  
10 definition of "estimated acquisition cost" when you  
11 were in the reimbursement department?

12 A. No.

13 Q. Okay. If we could move on to the next  
14 manual, which is the Reimbursement Implementation  
15 Manual, I believe.

16 Sir, let me ask you. What manuals did  
17 you write, if any, when you were in the Home Infusion  
18 division?

19 A. In general manuals tend to be a compilation  
20 of materials that lots of people would have written.  
21 And I guess from scratch the manuals that I probably  
22 compiled and may have written good portions of them  
23 would have been in my last three years or so when I  
24 was product manager of the CHIP system related to how  
25 one as a user uses the CHIP system.

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1 Q. Okay. Do you remember any other manuals that  
2 you contributed materials to?

3 A. I probably contributed some to this one that  
4 we're looking at.

5 Q. The Reimbursement Implementation Manual?

6 A. Probably.

7 Q. Okay. Any others that you can think of?

8 A. Not that I can think of right now.

9 Q. Okay. Sir, this is designated highly  
10 confidential. Do you know why it's designated highly  
11 confidential?

12 A. It wasn't on there when I turned the document  
13 over.

14 MS. ST. PETER-GRIFFITH: Okay. Let me  
15 just ask counsel for Abbott. Do you intend to  
16 continue with this designation of this manual as  
17 highly confidential?

18 MR. COLE: As I said earlier, Counsel,  
19 we are happy to reassess the confidentiality  
20 designation, but as of this time, sitting in this  
21 deposition, we're not willing to withdraw it.

22 MR. STETLER: Can I just make one quick  
23 observation on this?

24 MS. ST. PETER-GRIFFITH: Sure.

25 MR. STETLER: Just to clarify it and it

20 (Pages 339 to 342)

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1 may help you with more questions for -- for  
 2 Mr. Rodman. As everybody will remember, these  
 3 documents were located in -- in a relatively short  
 4 period of time before Mr. Rodman was to have  
 5 originally appeared at his deposition. After he  
 6 produced the documents to me, they remained in my law  
 7 firm's possession, but we made them available to  
 8 Abbott for the purpose of their reviewing it since  
 9 they were Abbott documents.

10 We were instructed by Abbott at that  
 11 time to designate them highly confidential with the  
 12 understanding that the designation may or may not  
 13 stick in the future, but simply for the sake of  
 14 expediency and marking them quick.

15 So as far as the witness knows, he  
 16 produced all the documents to me. We followed  
 17 Abbott's direction. And as far as whether they want  
 18 to stick with the highly confidential or not, we do  
 19 not have a dog in that fight.

20 MS. ST. PETER-GRIFFITH: Okay.

21 MR. STETLER: So I'm just saying that  
 22 procedurally that's the way it works and Mr. Rodman is  
 23 not going to know about whether it's confidential or  
 24 not. Now, you may want to ask him, "Do you consider  
 25 these to be confidential," I don't care, but I just

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1 wanted to let everybody know, you know. Because I'm  
 2 sitting here -- we are actually the ones, my law firm,  
 3 that designated it highly confidential at the  
 4 instruction of Abbott.

5 MS. ST. PETER-GRIFFITH: Did Abbott's  
 6 attorneys look at the materials before they were  
 7 designated highly confidential?

8 MR. COLE: Yes, we did.

9 MR. STETLER: I believe that they did a  
 10 review and I -- quite frankly, I thought there was an  
 11 exchange of e-mails with somebody and Mr. Cole is new  
 12 to this deposition --

13 MS. ST. PETER-GRIFFITH: Right.

14 MR. STETLER: -- where -- where I  
 15 believe there's an e-mail exchange somewhere that  
 16 you're on, Counsel, I believe, where they said, "We  
 17 are just designating everything confidential for now  
 18 and we may or may not stick with it, but there's no  
 19 way within the next," I don't know, week or however  
 20 much time we had, "we can actually do a particularized  
 21 review."

22 MS. ST. PETER-GRIFFITH: Okay.

23 MR. STETLER: Now, that has nothing to  
 24 do with whether or not it sticks.

25 MS. ST. PETER-GRIFFITH: No. I --

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1 MR. STETLER: -- I'm just saying that's  
 2 why we put it on to begin with.

3 MS. ST. PETER-GRIFFITH: Well, part of  
 4 the reason why I'm asking is that was in July and now  
 5 we're in October.

6 MR. STETLER: Right. I'm just telling  
 7 you what we did.

8 MS. ST. PETER-GRIFFITH: Sure. I  
 9 understand.

10 MR. STETLER: And I don't care if it  
 11 sticks. I don't care if they withdraw it. I don't  
 12 care if you guys fight over it. But as the guy who  
 13 put it on there, I just wanted you to know why we put  
 14 it on there.

15 MS. ST. PETER-GRIFFITH: Okay. That's  
 16 fine.

17 MR. STETLER: Not that I personally put  
 18 it on there.

19 MR. COLE: What document are we looking  
 20 at now? What's the Bates range?

21 MS. ST. PETER-GRIFFITH: We are looking  
 22 at the reimbursement manual, 1407. Do you have that?

23 MR. COLE: I don't have --

24 MS. ST. PETER-GRIFFITH: Is it under  
 25 there?

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1 MR. COLE: I don't see 1407.

2 MS. ST. PETER-GRIFFITH: Hold on. Let  
 3 me -- let me get you a copy. (Tenders document).

4 MR. COLE: Thank you.

5 Q. (BY MS. ST. PETER-GRIFFITH) Sir, do you  
 6 consider these documents to be confidential?

7 MR. COLE: Object to the form.

8 A. I guess that defines -- depends on how you  
 9 define confidential.

10 Q. (BY MS. ST. PETER-GRIFFITH) Were they --  
 11 were they maintained as confidential documents within  
 12 your office?

13 MR. COLE: Object to the form.

14 A. Would I consider these to be documents that  
 15 just anybody in the general public should be able to  
 16 see at any time, no.

17 Q. (BY MS. ST. PETER-GRIFFITH) Why not?

18 A. Because I think that these were business  
 19 documents that were part of Abbott's product and  
 20 service development that, you know, businesses don't  
 21 have any particular reason why they should provide  
 22 them.

23 Q. Were they distributed to the clients?

24 A. This certainly was.

25 Q. This was?

21 (Pages 343 to 346)

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1 A. Certainly.  
 2 Q. Okay. If you could -- approximately how many  
 3 clients do you think this was distributed to?  
 4 A. Well, this -- this manual was used as -- what  
 5 do we call this? Reimbursement. This was used kind  
 6 of as a guide for starting a new client that Abbott  
 7 was doing reimbursement for. So there's materials in  
 8 here that would be used to walk through with them the  
 9 types of decisions that had to be made. Some of it  
 10 would be training material. And this was -- I don't  
 11 know when -- you know, the first time this type of  
 12 manual was put together. I think we probably enhanced  
 13 it over time.  
 14 The dates on this one would appear, I'm  
 15 just looking at them, probably to be around 1998. And  
 16 this was used with a client to start them up as a  
 17 billing service. And judging from this agenda in  
 18 here, the client was Memorial out of Colorado.  
 19 Q. Sir, were you ever involved in case  
 20 management negotiations or developing policies or  
 21 practices concerning case management negotiations?  
 22 A. No.  
 23 Q. If you could look at Page 1409. It says  
 24 "Memorial Reimbursement Training and Implementation  
 25 Agenda."

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1 A. Uh-huh.  
 2 Q. Do you see that?  
 3 A. Yes.  
 4 Q. Do you remember this particular training  
 5 session?  
 6 A. To the point where it occurred and I was part  
 7 of it, yes.  
 8 Q. Okay. Well, you're listed as -- I believe  
 9 as -- on several agenda items. Do you see that?  
 10 A. Yes.  
 11 Q. Okay. Did you give training on -- well,  
 12 first of all, who did you give this training to?  
 13 A. This would have been to the individuals at  
 14 the client, Memorial, which is one of our clients.  
 15 Q. Okay.  
 16 A. Uh-huh.  
 17 Q. Do you remember what year this was given?  
 18 A. I would estimate 1998 only because that's  
 19 what I see in the manuals here.  
 20 Q. Okay. And just -- just so that we could put  
 21 this on the record, this is -- this document and the  
 22 next page are stapled documents that were inside the  
 23 front pouch of this particular binder that you have,  
 24 right? They're not part of the larger manual itself?  
 25 A. That would be correct.

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1 Q. Okay. And it appears that at this training  
 2 session you gave a Medicare overview from 8:30 to  
 3 10:30. Do you see that?  
 4 A. It does appear that.  
 5 Q. Okay. What are CMNs?  
 6 A. Certificate for medical necessity.  
 7 Q. Okay. And then after the break you gave a  
 8 lecture on finalizing reimbursement procedures and  
 9 forms. Do you see that?  
 10 A. I see that.  
 11 Q. Okay. What do you recall about this  
 12 presentation?  
 13 A. Nothing there.  
 14 Q. Okay. The next presentation after lunch --  
 15 oh, you had lunch and a break and apparently you were  
 16 responsible for that as well.  
 17 A. Apparently I was, as -- as was my boss at the  
 18 time, whose name was Keith Harper.  
 19 Q. Okay. Well, I hope you weren't making  
 20 sandwiches. But if we could -- after lunch, there was  
 21 a -- there was a session on case -- or "Review Case  
 22 Management Negotiation Practices." Do you see that?  
 23 A. I do.  
 24 Q. Do you know why you were listed with Shellie  
 25 Bronson?

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1 A. I don't know why.  
 2 Q. Do you remember giving a lecture?  
 3 A. I don't.  
 4 Q. Okay. Were you -- if a client had questions  
 5 about case management negotiation practices, did you  
 6 ever field any of those questions?  
 7 A. Not that I can recall.  
 8 Q. If you had received one of those questions,  
 9 what would you have done?  
 10 A. I would have turned it over to the Contract  
 11 Marketing department.  
 12 Q. Okay.  
 13 A. The ones that did the negotiation.  
 14 Q. Then the next item was the "Finalize Cash  
 15 Application Procedures." Do you see that?  
 16 A. Yes.  
 17 Q. Okay. What -- what was your involvement in  
 18 cash application procedures?  
 19 A. That was done in the accounting area, the  
 20 accounting department, as I had explained earlier, and  
 21 that was the extent of my involvement.  
 22 Q. Is Michele Scarpelli a member of the  
 23 accounting department?  
 24 A. Yes, she was.  
 25 Q. Okay.

22 (Pages 347 to 350)

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1 A. And she was responsible -- she was the first  
 2 level manager responsible for cash applications, if I  
 3 recall correctly, at the time. I think the reason my  
 4 name is on all these is because I believe I -- was --  
 5 for reimbursement I was the lead supervisor  
 6 responsible for implementing this client and so it's  
 7 probably why my name is on everything.  
 8 Q. I see. Okay. Do you remember what letters  
 9 and agreements you discussed?  
 10 A. No.  
 11 Q. Okay. Then "Review and Implement Financial  
 12 Reporting." What is financial reporting?  
 13 A. That would be the -- the reimbursement  
 14 department would produce reporting once a month for  
 15 the client of, you know, financial records, you know.  
 16 I had mentioned one earlier, a sales report, a gross  
 17 sales report. Another one we -- we had talked about  
 18 earlier, a collections report.  
 19 Q. Okay.  
 20 A. And there would have been other reports, too,  
 21 but this is essentially the -- talking about the  
 22 reports that would be given to the client once a month  
 23 from the CHIP system.  
 24 Q. It appears, if you flip the page to 1410,  
 25 that there was a day two. And you were making lunch

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1 and wrapping up on day two as well, it appears. But  
 2 before you made lunch, you were involved in a "Process  
 3 Map Referral/Reimbursement Screening Finalize  
 4 procedures and forms." Do you see that?  
 5 A. Uh-huh.  
 6 Q. What is that referencing?  
 7 A. Remember when I talked about earlier the  
 8 process where the referral would come to the client  
 9 and then information faxed -- would be faxed to that  
 10 reimbursement screening department and then that  
 11 department would be then verifying the insurance,  
 12 determining if there was a contract. So if you had an  
 13 in network or out of network relationship. And in  
 14 this case, because it was a client model, consulting  
 15 with the client probably as to whether the patient was  
 16 really going to be accepted depending on the insurance  
 17 situation. That's what that means.  
 18 Q. Okay.  
 19 A. Working out that process.  
 20 Q. Excuse me. Then the very last thing you  
 21 provided was "New Medicare CMN Requirements." Do you  
 22 see that?  
 23 A. Yes.  
 24 Q. Were you responsible for knowing and, you  
 25 know, either instructing or having a base from

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1 which -- a base of knowledge from which people could  
 2 draw within your department about Medicare or Medicaid  
 3 regulations?  
 4 A. Well, I had some responsibility for  
 5 understanding those requirements. It was very  
 6 difficult with Medicaid because there's so many of  
 7 them. Medicare was easier in that sense.  
 8 Regulations, that's -- I would call it  
 9 more in terms of essentially how you worked with those  
 10 health plans and it would be more contract or  
 11 materials, their coverage criteria, how you code, that  
 12 sort of thing. Not so much -- I mean, if you consider  
 13 that to be regulatory, yes. If you're -- if you're  
 14 talking about in the sense of, you know, published  
 15 federal regulations, that was really not something  
 16 that I was involved in very much at all.  
 17 Q. Well, where did you learn, where did you gain  
 18 your information about Medicare and Medicaid?  
 19 A. Primarily at that time it was from what I was  
 20 taught by others that already had some expertise as I  
 21 came into that department.  
 22 Q. Okay. Who would they be?  
 23 A. They would be Virginia Tobiason and Shellie  
 24 Bronson, primarily.  
 25 Q. Okay. So did you do any research on your own

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1 independent?  
 2 A. You know, we had copies of the contractors,  
 3 the Medicare contractors' manuals on coverage  
 4 criteria, coding, that sort of thing. I certainly  
 5 would have read those at times.  
 6 Q. If you had a question about Medicare or  
 7 Medicaid or if a client had a question about Medicare  
 8 or Medicaid statutes or regulations, who would you  
 9 take that question to?  
 10 MR. COLE: Object to the form.  
 11 A. I have to say, I don't recall that ever  
 12 happening, so --  
 13 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  
 14 A. Leave it at that.  
 15 Q. Is it fair to say that what you understood  
 16 about Medicare or Medicaid statutes you learned from  
 17 either Shellie Bronson or Virginia Tobiason?  
 18 MR. COLE: Object to the form.  
 19 A. I think what we learned, it didn't have to do  
 20 with statutes, it had to do with the more operational  
 21 aspects of how you actually -- what the coverage  
 22 criteria were, how you -- how you bill the claim. You  
 23 know, at that time I don't recall being involved with  
 24 statute or regulations in the area of billing to  
 25 Medicare at any time.

23 (Pages 351 to 354)

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<p style="text-align: right;">Page 355</p> <p>1 You know, what you saw in these 2 documents from the contractor was, you know -- I 3 understand this better now than I did then, you know. 4 It related somehow to regulation and statutes. And 5 conceptually I understand some of the coverage 6 criteria where -- how they related to statute. I 7 recall that being learned from Virginia Tobiason at 8 one point on some of this stuff. 9 Q. Well, did you have an understanding that, you 10 know, how Medicare and Medicaid were billed and what 11 the -- what they covered was governed by state and 12 federal statutes and regulations? 13 A. I can't really tell you pinpoint when I began 14 to understand that. And I'm sorry. I would like to 15 do better for you, but I can't. 16 Q. Okay. Well, when you were in reimbursement, 17 did you understand that what you were doing in terms 18 of claims submission, or what your staff was doing in 19 terms of claims submission, was governed by federal 20 law for the Medicare program and federal and state law 21 for the Medicaid program? 22 A. At some point I understood that, sure. 23 Q. Do you -- well, certainly the Medicare 24 program? 25 MR. COLE: Let me make an objection to</p>	<p style="text-align: right;">Page 357</p> <p>1 A. Well, this is pretty much what I had 2 explained to you in the first hour this morning -- 3 Q. You anticipated -- 4 A. -- so we could have saved some time. 5 Q. You anticipated my next question. 6 A. I'm sorry. What was -- what was your 7 question? 8 Q. My question was: Does this -- is this pretty 9 much the flow of what you described earlier? 10 A. Yes. 11 Q. Okay. 12 A. Uh-huh. 13 Q. If you could go to the next page, 1427. 14 After the sort of charts -- 15 A. At least as the flow within the reimbursement 16 department itself. 17 Q. I see. 18 A. Yeah. I haven't talked about the order being 19 shipped here, I guess, but it definitely was the flow 20 within the reimbursement department. 21 I'm sorry. What am I doing? 22 Q. You're looking at "Reimbursement Workflow" 23 where it says "Monthly" -- 24 A. Yes. 25 Q. "Reporting Package."</p>
<p style="text-align: right;">Page 356</p> <p>1 that last question. I didn't mean to interrupt. I 2 just didn't get a chance to -- 3 Q. (BY MS. ST. PETER-GRIFFITH) Go ahead. 4 MR. COLE: -- object to the form. 5 MS. ST. PETER-GRIFFITH: I'm sorry. 6 Q. (BY MS. ST. PETER-GRIFFITH) Go ahead. 7 A. At some point I -- I understood that for 8 Medicare, certainly, and I really don't recall being 9 focused on that with Medicaid at all. 10 Q. Well, was there an understanding generally 11 within the reimbursement department that, you know, 12 there were statutes that governed what you were doing 13 in terms of claims submission? 14 MR. COLE: Object to the form. 15 A. I would say probably not. 16 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you 17 could go to 1425, 1426 and 1427. 18 A. Uh-huh. 19 Q. It says "Reimbursement Workflow." 20 A. Uh-huh. 21 Q. Do you know who drafted this? 22 A. No. 23 Q. It looks like it was revised on 2/10/98. 24 A. I don't, actually. 25 Q. Did you utilize this workflow chart?</p>	<p style="text-align: right;">Page 358</p> <p>1 A. Uh-huh. 2 Q. Can you explain what each of these items 3 mean? 4 A. Yes. They mean the name of a report. The 5 gross sales report was a monthly reporting of 6 revenues, projected revenue sales that would be used 7 for booking to the business accounting. 8 A/R summary transaction ledger. There 9 was a report that essentially said, hey, at the 10 beginning of the month you had \$10,000 of A/R and at 11 the end of the month you had \$8,000 of A/R and how did 12 you get there. So there were plus- and minus-type 13 transactions to indicate how you got there between -- 14 during the month. 15 The write-off analysis report, I 16 remember earlier I had mentioned when claims were 17 closed, there might have been times when you did 18 not -- you were not paid what you were expected to be 19 paid. So this is a report that showed aggregated, and 20 perhaps individual by claim, I don't recall, the 21 difference between what you were paid when you closed 22 the claim and what you thought you were going to get 23 and the reason for it. 24 Revenue share report, we had talked 25 about that earlier, which was collections multiplied</p>

24 (Pages 355 to 358)

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1 by the revenue share arrangement and it showed the  
2 Abbott versus the client split.

3 The aging report was a listing of the  
4 accounts receivable of outstanding claims and it  
5 showed how old they were on a time -- you know,  
6 monthly bucket time schedule, essentially.

7 Q. Okay. I assume that conference calls are not  
8 related to anything.

9 A. Well, not related to being a report.

10 Q. Okay.

11 A. Okay.

12 Q. If you could, sir, go to 1431. First, let me  
13 ask you as you're flipping the pages. Was this manual  
14 utilized on a regular basis by the reimbursement staff  
15 within Home Infusion?

16 A. This was used on a regular basis to implement  
17 new clients that were starting up where reimbursement  
18 was serving as a billing service. I would have to  
19 start looking. There might be a few forms in here  
20 that would be completed working with the client that  
21 would become part of the permanent documentation for  
22 that client that would be used by some of the  
23 reimbursement staff.

24 Q. Okay. Can you -- go to 1431.

25 A. Uh-huh.

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1 Q. What is this document?

2 A. This was some of the information that would  
3 be collected when the patient was first referred that  
4 I had talked about in that reimbursement intake  
5 screening process. And it's called the "Patient  
6 Referral Data Base Care/Service Plan." That's what it  
7 is.

8 Q. Would the revenue -- would the revenue share  
9 client be the one -- the Abbott revenue share client  
10 be the one who completed this information or would a  
11 Home Infusion reimbursement specialist?

12 A. Well, actually, I don't know that this  
13 information would or would not have been completed per  
14 se. It probably would have been by the client, but  
15 this type of information would also have been entered  
16 into the CHIP system. And so I really didn't spend  
17 much time -- I wasn't involved in the pharmacy  
18 procedures. If this form was used, it would have been  
19 completed in the pharmacy by the intake people. And  
20 if that's the case, it probably -- it probably would  
21 have ended up in a patient file in the pharmacy and  
22 the data would have been entered into the CHIP system.

23 Q. Is that true for Abbott pharmacies as well --

24 A. Yes.

25 Q. -- would they have utilized this?

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1 A. Well, I would think they may have, as best I  
2 can tell you.

3 Q. Okay. If you could go to 1434 and 1435 and  
4 1436. It says "Worksheets" on the preceding page.

5 A. Uh-huh.

6 Q. Can you tell what these -- whether this is a  
7 single document or a series of documents?

8 A. These three pages? Well, they are related to  
9 the intake process when a patient was being accepted  
10 that was covered by Medicare. The first document  
11 would be used for all Medicare patients during the  
12 intake process. And then if they happen to be a total  
13 parenteral nutrition or TPN patient, the second page  
14 would be used. That's 1435. And if they happen to be  
15 a total enteral nutrition patient for -- what their  
16 therapy was going to be, then Page 1436 would have  
17 been used for that.

18 Q. I see. Okay. And that's what TEN means,  
19 total enteral?

20 A. Total enteral nutrition.

21 Q. Okay.

22 A. Uh-huh.

23 Q. And then TPN is total parenteral nutrition?

24 A. Yes.

25 Q. Okay. Just -- can you just briefly describe

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1 the difference between parenteral and enteral  
2 nutrition?

3 A. Absolutely. Total parenteral nutrition is a  
4 feeding of nutrients directly into the bloodstream via  
5 infusion. Total enteral nutrition is -- enterals  
6 would be cans of -- enteral nutritions, but cans of  
7 nutritions. The reason that a home infusion company  
8 would be involved is that the patient was being fed by  
9 tubes going into the GI tract somewhere. So there  
10 would be an administration of them by tube and perhaps  
11 by pump.

12 Q. Okay. If you could go to Pages 1440 -- 1453,  
13 54 and 55. And if you could just identify what these  
14 three documents are generally.

15 A. I'm not sure why there's multiple copies here  
16 at the moment, but it looks like to me it's actually  
17 different versions and later versions that I was  
18 keeping. This is generally a document that would have  
19 been used for setting up the process of the receipt of  
20 records of the money from claims and coming from the  
21 health plans to the client or to Abbott, depending on  
22 who was doing the cash application. That's what this  
23 was. And, also, since lockbox is included, it's  
24 actually the receipt of the cash itself, the checks.

25 Q. Okay. So is it fair to say that these

25 (Pages 359 to 362)

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1 identify the procedures for receipt of payment and  
 2 where -- where it goes in the lockbox?  
 3 A. This actually looks to me like being a  
 4 checklist to set up those parameters --  
 5 Q. I see. Okay.  
 6 A. -- with the client.  
 7 Q. If you could look at 1455.  
 8 A. Uh-huh.  
 9 Q. There's some redactions on this page.  
 10 A. Uh-huh.  
 11 Q. Do you know what those -- what's being  
 12 redacted?  
 13 A. I -- I believe this was probably the name of  
 14 the client -- of a client that this was used for at  
 15 some point. Judging that this has a date of 1995 on  
 16 it, I doubt that it was the Memorial client. There  
 17 would have been no reason to redact it. And, also,  
 18 because there are some pages sort of crossed off and  
 19 stuff, it looks to me like I was probably just kind of  
 20 keeping some of my own records of this -- previous  
 21 versions that we had in the past as opposed to, you  
 22 know, the page that was probably used with the  
 23 Memorial client was the most recent.  
 24 Q. The most recent --  
 25 A. Yeah.

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1 Q. -- which is that first page.  
 2 A. Yeah, exactly.  
 3 Q. Okay. So basically in terms of this  
 4 reimbursement lockbox procedures, if the -- if you put  
 5 in sort of Client A, or whoever it is --  
 6 A. Uh-huh.  
 7 Q. -- that's what completes the blacked-out  
 8 sections?  
 9 A. That -- it looks to me that way.  
 10 Q. Okay.  
 11 A. Number 4, Ace Home Infusion will mail the  
 12 lockbox contents to Abbott Labs.  
 13 Q. Did -- did Abbott utilize any outside  
 14 contractors to assist in this lockbox procedure?  
 15 A. Abbott used contractors in the reimbursement  
 16 area quite a bit at the -- and during the early  
 17 periods clerical people. You know, those  
 18 reimbursement clerks or reimbursement technicians that  
 19 I talked about to do certain reimbursement functions.  
 20 The people involved in the application of cash, which  
 21 was in the accounting area, I don't recall that  
 22 contractors were ever used there.  
 23 Q. Okay. When you say "contractors," do you  
 24 mean like -- like temporary help or contracted help?  
 25 A. I do, yes.

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1 Q. Okay. As opposed to a service, a contracted  
 2 company that would come in and do it?  
 3 A. That's -- the former is what I mean.  
 4 Q. Okay. If you go to what I think is going to  
 5 be the last page that I'm going to ask you to look at  
 6 in this manual, 1474.  
 7 A. Uh-huh.  
 8 Q. It says "Other Billings." Do you see that?  
 9 A. Uh-huh.  
 10 Q. And it says "Upcharges." What are upcharges?  
 11 MR. COLE: What page are we on now?  
 12 MS. ST. PETER-GRIFFITH: I'm sorry.  
 13 1474.  
 14 MR. COLE: Thank you.  
 15 A. This pertains to the list price that would  
 16 ultimately -- that might go on the claim if it was  
 17 being sent to the payer, to the -- to the health plan  
 18 list price claim. These were some techniques that had  
 19 been established that were used to essentially  
 20 establish more of that usual and customary pricing.  
 21 So, you know, upcharges -- in this  
 22 particular case it's kind of like there was something  
 23 in the system that added an additional charge to the  
 24 claim to determine a usual and customary price that  
 25 would go to the payer. So it was a little bit more

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1 complicated in that sense than simply having a list  
 2 price on each item file product record. There were  
 3 other ways in the system to add more dollars to the  
 4 claim to ultimately have a list price for the claim.  
 5 Q. (BY MS. ST. PETER-GRIFFITH) And under what  
 6 circumstances would that -- would that occur? I  
 7 assume it wasn't a normal thing, that it was an  
 8 exceptional situation?  
 9 A. No. I think that probably this was a normal  
 10 thing. The -- there was an automation in the system  
 11 to do these types of upcharges and if it was -- I  
 12 think it was pretty normal.  
 13 Q. Okay.  
 14 A. Uh-huh.  
 15 Q. When would it occur, do you know?  
 16 A. Most of the time, because it was pretty  
 17 normal.  
 18 Q. Oh, I see. Okay. I think we are done with  
 19 this manual.  
 20 MS. ST. PETER-GRIFFITH: What time do we  
 21 have?  
 22 MR. SISNEROS: 11:30.  
 23 Q. (BY MS. ST. PETER-GRIFFITH) Do you need to  
 24 take a break, Mr. Rodman --  
 25 A. No.

26 (Pages 363 to 366)

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<p style="text-align: right;">Page 367</p> <p>1 Q. -- or do you want to plow throw a little bit?</p> <p>2 A. I'm fine.</p> <p>3 Q. Okay.</p> <p>4 A. Thank you for asking.</p> <p>5 Q. Why don't we move to the next manual so that</p> <p>6 we can get the books -- some of the books out of the</p> <p>7 way. "CHIP Reimbursement A-Z Class Materials," 2698.</p> <p>8 MR. COLE: Counsel, were these all</p> <p>9 marked as a -- as a group exhibit, the box itself?</p> <p>10 MS. ST. PETER-GRIFFITH: Uh-huh.</p> <p>11 MR. COLE: Okay.</p> <p>12 MS. ST. PETER-GRIFFITH: Exhibit 1.</p> <p>13 MR. COLE: Okay.</p> <p>14 MS. ST. PETER-GRIFFITH: And then</p> <p>15 Exhibit 2 was the 38,000 additional pages on the</p> <p>16 two -- on the two burned -- the two burned DVDs were</p> <p>17 actually marked as the second exhibit.</p> <p>18 MR. COLE: All right.</p> <p>19 MS. ST. PETER-GRIFFITH: And I didn't</p> <p>20 bring a portable printer, so we won't be going over</p> <p>21 those.</p> <p>22 MS. THOMAS: They were actually marked</p> <p>23 as 1314 and 1315.</p> <p>24 MS. ST. PETER-GRIFFITH: Yes. Yeah.</p> <p>25 I'm sorry. Yes. Not --</p>	<p style="text-align: right;">Page 369</p> <p>1 Q. Okay. Other than you?</p> <p>2 A. You know. I mean, we had a lot of clients,</p> <p>3 so they may have some.</p> <p>4 Q. Okay. What about this CHIP Reimbursement A-Z</p> <p>5 Class Materials, do you know whether these materials</p> <p>6 were saved?</p> <p>7 A. I do not know if these would have been saved</p> <p>8 by Abbott. I have no knowledge if anybody else</p> <p>9 decided to keep some. Certainly clients have these.</p> <p>10 Abbott did ultimately, at the very end, sell the</p> <p>11 rights to the CHIP system to a third-party company</p> <p>12 that was given copies of these. Clients, I would</p> <p>13 imagine there are still a few that are using the CHIP</p> <p>14 system, so they probably have this.</p> <p>15 Q. Do you know what the third-party company is?</p> <p>16 A. I do.</p> <p>17 Q. What is it?</p> <p>18 A. American Healthcare Software Enterprises.</p> <p>19 Q. Let me ask you, the CHIPs computer</p> <p>20 information that was on the Abbott database, what --</p> <p>21 which -- first of all, which database was the CHIP</p> <p>22 system on, do you know?</p> <p>23 A. Ask me that another way.</p> <p>24 Q. Well --</p> <p>25 MR. STETLER: You mean like more</p>
<p style="text-align: right;">Page 368</p> <p>1 MS. THOMAS: Not literally one and two.</p> <p>2 MS. ST. PETER-GRIFFITH: Not literally</p> <p>3 one and two. They were the second. Thank you.</p> <p>4 Q. (BY MS. ST. PETER-GRIFFITH) Sir, if you need</p> <p>5 to take a few minutes to flip through this, go right</p> <p>6 ahead.</p> <p>7 A. (Witness reviewing document). Okay.</p> <p>8 Q. Okay. Sir, do you recognize this document?</p> <p>9 A. I do.</p> <p>10 Q. What is it?</p> <p>11 A. It is the CHIP Reimbursement A-Z Class</p> <p>12 Materials Manual.</p> <p>13 Q. Okay. And how are you familiar with this</p> <p>14 document?</p> <p>15 A. I believe I compiled this.</p> <p>16 Q. Okay. Do you know when -- actually, let's go</p> <p>17 back to that last document that we talked about. I</p> <p>18 may have asked you this question before, but I'm not</p> <p>19 sure.</p> <p>20 Do you know whether there are any other</p> <p>21 copies of the Reimbursement Implementation Manual or</p> <p>22 do you know whether they were all subject to the sort</p> <p>23 of pitching that occurred when Home Infusion closed?</p> <p>24 A. I'm not aware that any were intentionally</p> <p>25 saved by anybody.</p>	<p style="text-align: right;">Page 370</p> <p>1 politely or --</p> <p>2 THE WITNESS: No. Just I don't</p> <p>3 understand the question.</p> <p>4 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Were you</p> <p>5 aware that there were different databases at Abbott,</p> <p>6 computer -- computer databases at Abbott?</p> <p>7 A. CHIP system databases?</p> <p>8 Q. Any -- no. Just different databases for --</p> <p>9 company-wide.</p> <p>10 A. Oh, sure.</p> <p>11 Q. Okay. What were some of those databases?</p> <p>12 MR. COLE: Object to the form.</p> <p>13 A. You know, Abbott at the time was probably a</p> <p>14 12, 13 billion dollar company with a lot of different</p> <p>15 businesses, so there would have been a lot of systems.</p> <p>16 And I had roles in Abbott prior to Home Infusion</p> <p>17 Services, so I was involved with just a few of them at</p> <p>18 the time.</p> <p>19 You know, Abbott had a purchasing</p> <p>20 database that was used for acquiring Abbott products</p> <p>21 that -- like office supplies, and that sort of thing.</p> <p>22 I'm aware of that one.</p> <p>23 In my earlier experience at Abbott --</p> <p>24 well, before I was in reimbursement, I was involved in</p> <p>25 the Abbott customer order entry process where</p>

27 (Pages 367 to 370)

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<p style="text-align: right;">Page 371</p> <p>1 customers would buy products directly from Abbott and  2 there were systems that were involved with that.  3 You know, within my Home Infusion  4 Services tenure, everything I ever did was with this  5 CHIP system, that I can recall.  6 Q. (BY MS. ST. PETER-GRIFFITH) Okay. And what  7 database was this CHIP system on within Abbott?  8 A. Well, the CHIP system actually could be set  9 up to have a lot of different databases, you know.  10 And to give you an example, we might have been serving  11 Ace Home Infusion company and we might have been  12 serving Beta Home Infusion company and the CHIP system  13 had the capability within a physical computer to set  14 them up with entirely different databases for that  15 purpose of managing the whole business function. So  16 in one sense the CHIP system databases were the CHIP  17 system databases, but there were a lot of them.  18 Q. Okay. You're going to have to excuse me  19 because I am, with the possible exception of  20 Mr. Stetler, the most computer nonfluent person.  21 MR. STETLER: Hey.  22 MS. ST. PETER-GRIFFITH: Mr. Stetler  23 could be very computer fluent. I'm sorry.  24 MR. STETLER: No, you got it right.  25 MS. ST. PETER-GRIFFITH: Okay.</p>	<p style="text-align: right;">Page 373</p> <p>1 indicated the CHIPs information was on the AS400s  2 towards the latter part?  3 A. You know, I think that was for the majority  4 of it.  5 Q. Okay.  6 A. Yeah.  7 Q. Do you recall CHIPs being on any other  8 system?  9 A. Not beyond what I've mentioned.  10 Q. Okay. If I today --  11 A. Well -- well, the CHIP system also -- there  12 were some clients that ran the CHIP system on their --  13 Q. Okay.  14 A. -- IBM hardware, so ...  15 Q. Okay. And -- and I should apologize and  16 clarify. I meant just in terms of the systems at  17 Abbott.  18 A. Yes.  19 Q. Okay. On your last day at Abbott, if I were  20 to come to you and say, "I've got this production  21 request from the United States and it says I will need  22 all the computer CHIP information that you have,"  23 where would you go to look for it?  24 A. That I have in my possession as of that time?  25 Q. No. Well, that Abbott has.</p>
<p style="text-align: right;">Page 372</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) When I say  2 "database," and I might be using the wrong term, was  3 there a mainframe that contained the CHIP information?  4 A. There were several.  5 Q. Oh, there we go. Okay. What mainframe was  6 the CHIP reimbursement system on?  7 A. The physical computers were IBM computers.  8 They were considered mid-range -- not even that,  9 small -- small to mid-range computer technology at the  10 time. They were -- I think when the system was first  11 developed, it was called a System 34 and then it  12 became a System 36 and then a System 38 and ultimately  13 an AS400.  14 Q. Okay.  15 A. And so ultimately at the end we had some  16 AS400 computers that it ran on. And there were more  17 than one.  18 Q. Okay. How many were there?  19 A. There were two or three that were used for  20 production data. I mean, data that was used for the  21 real operation. And then there was one that was used  22 as a systems development and training system.  23 Q. Okay.  24 A. If I recall that correctly.  25 Q. For the AS -- well, first of all, you said --</p>	<p style="text-align: right;">Page 374</p> <p>1 A. That Abbott has in their possession --  2 Q. Yes.  3 A. -- as of that time? I would look from the --  4 the backup archiving that would have been maintained.  5 Q. And what were the policies concerning the  6 backup archiving?  7 A. That you would have to ask the CHIP systems  8 department on -- to get the specifics. I can tell you  9 in general that there were, not by me, very well  10 understood requirements to save patient data for a  11 number of years, which would be both medical and  12 reimbursement data.  13 Q. Okay. Other than patient data, would --  14 would, for example, reports be kept or the reports  15 that you talked about identifying, you know, the  16 amounts that were taken in for reimbursement and the  17 allocation to the revenue share customer and the  18 allocation to Abbott, would those types -- would that  19 type of data be backed up and saved anywhere?  20 A. Well, the reports would not, but the data  21 that was used by the computer system to generate those  22 reports would have been backed up, yes.  23 Q. Would the reports have been saved in hard  24 copy someplace?  25 A. They might have been, but that was out of</p>

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1 my -- my league.  
 2 Q. Who would have retained the hard copies?  
 3 A. I don't really know.  
 4 Q. You said the CHIPs systems department. What  
 5 is the CHIPs systems department?  
 6 A. The information technology developers of the  
 7 system.  
 8 Q. Okay. And were there --  
 9 A. The programmers.  
 10 Q. Okay. Were there particular programmers who  
 11 were dedicated full-time to the CHIP system?  
 12 A. Yes.  
 13 Q. And who were they?  
 14 A. Well, there were a lot of them.  
 15 Q. Oh, okay. Who do you recall?  
 16 A. Well, I mentioned the manager already. That  
 17 was Chris Blandford. Sarah Card, Jerrie Goldstein.  
 18 Zin Fooks, F-o-o-k-s, Z-i-n, I think.  
 19 MR. STETLER: Yes.  
 20 A. Shirish, S-h-i-r-i-s-h, Patel, P-a-t-e-l.  
 21 There were others.  
 22 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Were  
 23 they -- where were they physically located in relation  
 24 to Home Infusion?  
 25 A. At the end?

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1 Q. At the end. So they were actually in the  
 2 Home Infusion department?  
 3 A. Oh, they were in the department, but at the  
 4 end they were in a different location.  
 5 Q. Okay. Where they were at the end?  
 6 A. They were in a building off the toll road  
 7 in -- I guess that's Lake Forrest that the Hospital  
 8 Products Division was housed in, a portion of the  
 9 Hospital Products Division was housed in.  
 10 Q. Is that now Hospira?  
 11 A. That is their building now, yes.  
 12 Q. Okay.  
 13 A. There's two buildings there and they were in  
 14 the building closer to the toll road.  
 15 Q. Okay.  
 16 A. And the pharmacy was closed down by then.  
 17 The remaining portion of the department that was in  
 18 place was in some lease space that was about five  
 19 miles down off of Route 22, off of the toll road --  
 20 Q. Okay.  
 21 A. -- in Bannockburn.  
 22 Q. Was the CHIP system a program that was  
 23 designed to access only information within the Home  
 24 Infusion business unit or -- or could it access  
 25 information outside of the Home Infusion business

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1 unit?  
 2 A. You mean with respect to Abbott boundaries  
 3 you might say --  
 4 Q. Yeah. Abbott boundaries, yes.  
 5 A. -- business boundaries?  
 6 Q. Yes.  
 7 A. Strictly within Home Infusion Services.  
 8 Q. Did it pull any information at all, to your  
 9 knowledge, any computer information from the Hospital  
 10 Business Sector?  
 11 A. None to my knowledge.  
 12 Q. Okay. What about list prices?  
 13 MR. COLE: Object to the form.  
 14 A. I wasn't involved in that, so I can't answer  
 15 that.  
 16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Could it  
 17 have been, but you just don't know?  
 18 A. I just don't know.  
 19 Q. Okay. So if I tell you that I deposed  
 20 Shirish Patel and he testified that they pulled list  
 21 prices from the Hospital Business Sector, would that  
 22 surprise you?  
 23 MR. COLE: Object to the form.  
 24 A. I wouldn't know.  
 25 Q. (BY MS. ST. PETER-GRIFFITH) Okay. What was

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1 your interaction with other business units?  
 2 A. While I was at Home Infusion Services?  
 3 Q. Yes.  
 4 A. Very, very minimal.  
 5 Q. Okay. What would -- what would -- on a  
 6 minimal basis, what would your interaction have been?  
 7 A. Well, about the only time that I can recall,  
 8 and it was Mr. Stetler that at some point reminded me  
 9 of this, which I --  
 10 MR. STETLER: Whoa, whoa, you shouldn't  
 11 be talking about what I told you. If you remember,  
 12 tell them.  
 13 A. We -- we used to have occasions where -- and  
 14 there would be -- something would just seem -- I think  
 15 I talked about this last time, something would seem  
 16 very strange on the CHIP system having to do with an  
 17 AWP and if it was an Abbott product, I think I had one  
 18 or two or three interfaces with somebody in Contract  
 19 Marketing to try and figure out why this looked  
 20 strange. And, frankly, that's about all that I can  
 21 recall.  
 22 Q. When you say "Contract Marketing," do you  
 23 mean Contract Marketing within Home Infusion or  
 24 outside of Home Infusion?  
 25 A. That would be outside of Home Infusion.

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<p style="text-align: right;">Page 379</p> <p>1 Q. Which Contract Marketing?</p> <p>2 A. That would be HPD.</p> <p>3 Q. HPD. So within the Hospital Business Sector?</p> <p>4 A. Yes.</p> <p>5 Q. Sir, you said you put together the A to Z.</p> <p>6 Why did you create this manual or put together this</p> <p>7 compilation of materials?</p> <p>8 A. As strange as it may seem, because we were</p> <p>9 closing down, we still were taking our obligations to</p> <p>10 enable our clients to operate as best as they -- you</p> <p>11 know, efficiently. So I put this together -- and,</p> <p>12 actually, this may have been put together originally</p> <p>13 before the announcement of closing down was made. I</p> <p>14 don't recall. But this was intended to be used in a</p> <p>15 training class where I was teaching clients how to use</p> <p>16 the reimbursement functions of the CHIP system. So it</p> <p>17 was a classroom tool.</p> <p>18 Q. Okay. I would like to back up just before we</p> <p>19 delve into this book. When you said that you would --</p> <p>20 if there was something funky with -- with pricing and</p> <p>21 you would go to the Hospital Business Sector, how</p> <p>22 would you know to go to the Hospital Business Sector</p> <p>23 to clarify the issue?</p> <p>24 A. I don't recall.</p> <p>25 Q. Do you remember who you would go to?</p>	<p style="text-align: right;">Page 381</p> <p>1 documents that you had, pursuant to instructions from</p> <p>2 the legal department or pursuant to a litigation hold</p> <p>3 memo?</p> <p>4 A. I do not.</p> <p>5 Q. Do you ever remember receiving a litigation</p> <p>6 hold memo?</p> <p>7 A. I do not.</p> <p>8 Q. So when, approximately, did you put together</p> <p>9 this document, do you remember?</p> <p>10 A. I would estimate 2000 or 2001.</p> <p>11 Q. And would it have been before or after you</p> <p>12 learned about the impending closure of Home Infusion?</p> <p>13 A. That's what I said earlier, I'm frankly not</p> <p>14 sure.</p> <p>15 Q. Okay. Did someone help you compile these</p> <p>16 materials?</p> <p>17 A. I think I compiled these myself. That</p> <p>18 doesn't mean that I created them.</p> <p>19 Q. Okay.</p> <p>20 A. Every piece.</p> <p>21 Q. So you put together -- you went and collected</p> <p>22 a bunch of documents and put them together as a</p> <p>23 manual?</p> <p>24 A. That's what it looks like to me.</p> <p>25 Q. Did --</p>
<p style="text-align: right;">Page 380</p> <p>1 A. I recall the name of one person, Jerrie</p> <p>2 something.</p> <p>3 Q. Gerry Eichhorn?</p> <p>4 A. No, I don't think so.</p> <p>5 Q. Jerrie Cicerale?</p> <p>6 A. Cicerale, I remember that name.</p> <p>7 Q. Okay. What was your interaction with Jerrie</p> <p>8 Cicerale?</p> <p>9 A. I don't know if I've spoken to her. There</p> <p>10 may have been an e-mail or two.</p> <p>11 Q. Okay. Do you remember what the e-mail</p> <p>12 concerned?</p> <p>13 A. It would have been probably one of these</p> <p>14 weirdo type AWP things.</p> <p>15 Q. And did you retain that e-mail?</p> <p>16 A. Not that I know of.</p> <p>17 Q. Do you remember when -- when that would have</p> <p>18 been that you went and spoke to Jerrie?</p> <p>19 A. No.</p> <p>20 Q. Or e-mailed Jerrie?</p> <p>21 A. No.</p> <p>22 Q. Do you ever remember being subjected to a --</p> <p>23 strike that.</p> <p>24 Do you ever remember retaining any of</p> <p>25 your documents, either your e-mails or other physical</p>	<p style="text-align: right;">Page 382</p> <p>1 A. But I may have written some of them. I would</p> <p>2 have to look.</p> <p>3 Q. Well, we are going to go over some of these</p> <p>4 in detail, so --</p> <p>5 A. Okay.</p> <p>6 Q. Did you distribute this to anybody?</p> <p>7 A. It would have been used to train clients. It</p> <p>8 might have been used to train, also, some Abbott</p> <p>9 HomMed infusion employees that were involved in</p> <p>10 reimbursement and this manual would have been</p> <p>11 distributed to them, yes.</p> <p>12 Q. Do you consider it a confidential document?</p> <p>13 A. Only in the sense of it was an Abbott system,</p> <p>14 it's Abbott property. Do I consider anything in there</p> <p>15 highly confidential, divulging the business strategy?</p> <p>16 No, not really.</p> <p>17 Q. Do you know at the -- at the end of your</p> <p>18 tenure with Abbott when this -- the department was</p> <p>19 closing down and -- and you were involved with -- with</p> <p>20 throwing out some documents, do you know whether this</p> <p>21 was the only copy that was maintained or retained or</p> <p>22 were there other copies of this document that were</p> <p>23 saved?</p> <p>24 A. By Abbott?</p> <p>25 Q. At Abbott.</p>

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1 A. At Abbott?  
 2 MR. COLE: I object to form.  
 3 A. I don't recall that. Let me see. I can tell  
 4 you that Abbott also maintained the right to continue  
 5 to use the CHIP system. But whether that means Abbott  
 6 has any of these documents, I don't know. In addition  
 7 to having sold the license to this other company.  
 8 Q. (BY MS. ST. PETER-GRIFFITH) This American  
 9 Health -- what's the full name?  
 10 A. American -- what did I say? American  
 11 Healthcare Software Enterprises. I believe that's the  
 12 name of it.  
 13 Q. Did you -- do you know whether you provided  
 14 this particular manual to American Healthcare Software  
 15 Enterprises?  
 16 A. Do I have a specific recollection? No. Do I  
 17 think I did? Probably.  
 18 Q. Okay. Did you -- did you work directly with  
 19 the American Healthcare Software Enterprises?  
 20 A. Yes.  
 21 Q. Who did you work with?  
 22 A. The owner of that company is named Marsha  
 23 DeRosia, worked with her. There were some other  
 24 employees, but I don't remember any of those names.  
 25 Q. Do you know --

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1 A. Jim somebody. I remember Jim.  
 2 Q. Jim somebody?  
 3 A. Jim somebody. He's no longer there.  
 4 Q. Do you remember when you interacted with  
 5 them?  
 6 A. Yes. It was -- we shut down at the beginning  
 7 of 2003. It could have been as early as sometime  
 8 later in 2001. It was certainly in 2002. It was part  
 9 of both the negotiation process to work out a deal  
 10 with them, as well as ultimately turning over the  
 11 system to them for their use and helping train them.  
 12 Q. Do you know why Abbott maintained a -- the  
 13 right to use the CHIP system if it was phasing out  
 14 Home Infusion?  
 15 MR. COLE: Object to the form.  
 16 A. I'm not aware of any specific intended use  
 17 for it. I think that there was just a general thought  
 18 that, well, this was Abbott property, developed  
 19 property. There had been a lot of money invested in  
 20 it and if there became a use for it at some future  
 21 time, Abbott still wanted the right to use it.  
 22 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Do you  
 23 know how much they sold the CHIP system for?  
 24 A. I do have a recollection of that. It's  
 25 complicated to answer.

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1 Q. Okay. Well, do your best.  
 2 A. For, I think at the time, five clients that  
 3 continued to use it after we shut down the business.  
 4 Each one of them was offered the opportunity to -- my  
 5 memory is a little hazy here, so ...  
 6 Q. Okay.  
 7 A. But they were -- they were provided the  
 8 opportunity to own their version of the system. So  
 9 they would be owing the -- what's called the computer  
 10 code for it. And they were charged a fee. My -- the  
 11 actual term of the deal with American Healthcare  
 12 Software Enterprises, as I recall, was they were not  
 13 paid -- paying Abbott anything at the time of sale and  
 14 transfer for their rights to the system. They were to  
 15 pay Abbott a royalty of a sliding scale over a period  
 16 of years should they have placed the usage of the  
 17 system with any clients after that period of time.  
 18 Q. Okay. Do you know whether they were able to  
 19 place it with any clients?  
 20 A. I do not believe that they did.  
 21 Q. Okay. Where did you obtain your  
 22 understanding about why it was that Abbott decided to  
 23 retain rights to the CHIP system or rights to use the  
 24 CHIP system?  
 25 A. I don't recall any more than I have told you

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1 at this point on that.  
 2 MS. ST. PETER-GRIFFITH: Okay. Why  
 3 don't we -- oh, first, we've got five minutes left on  
 4 the tape. So why don't we take a brief break to  
 5 change the tape.  
 6 THE VIDEOGRAPHER: We are off the record  
 7 at 11:49 a.m. with the end of Tape Number 2.  
 8 (Recess from 11:49 to 12:00)  
 9 THE VIDEOGRAPHER: We are back on the  
 10 record at 12 o'clock noon with the start of Tape  
 11 Number 3.  
 12 Q. (BY MS. ST. PETER-GRIFFITH) Mr. Rodman, does  
 13 this manual or compilation of materials that you put  
 14 together, does it accurately reflect or did it  
 15 accurately reflect for the time information pertaining  
 16 to the CHIP system?  
 17 A. Pertaining to the reimbursement module of it,  
 18 to the best of my ability it did.  
 19 Q. Okay. If you could go to Page 2701.  
 20 A. I'm there.  
 21 Q. Okay. I'd just like to ask you, it says  
 22 "CHIP Reimbursement." This appears to be sort of an  
 23 introductory type page; is that fair?  
 24 A. Actually, it also was a promotional page to  
 25 get people to come to the class, it looks like. You

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1 can kind of tell that from the way it's written. But,  
2 yes, it's an introductory page, too.

3 Q. Okay. So there were actual classes that  
4 helped people have a complete understanding of the  
5 many capabilities that CHIP has to offer; is that  
6 fair?

7 A. This was -- during the period of time that I  
8 was the -- the -- essentially the product manager for  
9 the CHIP system and the user trainer and interface  
10 there were, and this was one of them. Part of that  
11 time there really weren't.

12 Q. There really weren't what?

13 A. Were not classes per se provided to  
14 customers. I really built a lot of that on my last  
15 three years or so, so ... Built -- you know, doing  
16 it. It would seem -- you know, you may think there  
17 would have been, but I can't recall that there -- you  
18 know, I have to back up on that. I want to back up.  
19 I'm sorry.

20 There were some people that were  
21 responsible for the -- up until the point where the  
22 business unit was closing down and I became the CHIP  
23 product manager, they were the people that were  
24 responsible for the customer training and the direct  
25 customer interface in all sections of the CHIP system.

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1 And they also had a major role in development of some  
2 of the features. Which, you know, I probably should  
3 have -- could have mentioned them earlier, but I'm  
4 just thinking of them now.

5 Q. Okay.

6 A. And who did they report in to? I believe  
7 they reported in to the individual who was the  
8 director of the pharmacies. That's -- that is my  
9 recollection. So there was -- you know, within the  
10 pharmacy in our organizational structure we have  
11 someone that was head of all the pharmacies and I  
12 think that they reported in to him, also.

13 So that's kind of a fourth group within  
14 the system that we hadn't really talked about yet that  
15 certainly had some responsibility and use in the CHIP  
16 system and that was these CHIP trainer educators.

17 Q. Thank you for that amplification because  
18 you've just reminded me of a question before we dive  
19 into this manual that I wanted to ask you. Were there  
20 other individuals who Abbott licensed the CHIP system  
21 to or sold the CHIP system to, other individuals or  
22 companies?

23 A. Yeah, there is one. Beyond the -- beyond  
24 the -- you know, the rights of companies, while they  
25 had this ongoing client relationship, they have the

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1 rights to use the system, but there is a company that  
2 we did sell a -- what I think we call a perpetual  
3 license to use this system to and there's one.

4 Q. And what was that company?

5 A. Express Scripts.

6 Q. Okay. And did they utilize the CHIP system,  
7 to your knowledge?

8 A. They did.

9 Q. Okay.

10 A. They also -- they bought the right to the --  
11 what's called the source code. Which means they  
12 bought the rights to actually do the programming so  
13 we -- we were no longer responsible, anyway, for the  
14 programming and development of the license that they  
15 had, the system that they bought.

16 I actually was the -- if you will,  
17 the -- from an implementation standpoint, the account  
18 manager, the trainer. I was the primary interface  
19 between Express Scripts and Abbott during this period.  
20 And that happened around 2000. And that, actually, is  
21 one of the reasons I put some of these manuals  
22 together.

23 Q. Okay. Who was invited to the training  
24 sessions?

25 A. Well, there were multiple training sessions.

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1 Q. Okay. Would you just send out invitations  
2 or --

3 A. Yeah. Actually, this would have been -- this  
4 page we were just looking at, 2701, actually would  
5 have been an invitation that would have been sent out  
6 to our clients.

7 And so, you know, typically who would be  
8 coming, would be people that had some responsibility  
9 in reimbursement that was a client, some of the Abbott  
10 people would be in these classes. And as I say, this  
11 manual was probably used for Express Scripts training  
12 that I did.

13 Q. Okay. And under Item 4 where it says  
14 "Learning Objectives" --

15 A. Uh-huh.

16 Q. -- there was an opportunity to learn how to  
17 use automated HCFA 1500 forms and -- and how to do  
18 Medicare electronic claiming, right?

19 A. Uh-huh.

20 Q. Do you remember what was taught about that?

21 A. In general, it would have been what the user  
22 had to do to use the system to do such things as  
23 creating a HCFA 1500 form or to submit a claim to  
24 Medicare electronically. So, you know, what you had  
25 to do in the screens, that sort of thing.

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1 Q. And so the CHIP -- the CHIP system permitted  
2 a user to create a HCFA 1500 form and to  
3 electronically submit a claim to Medicare?

4 A. Yes.

5 Q. Under Item 6 it says, "Obtain overview  
6 understanding of the use of price schedules for  
7 automatic contract special pricing." Do you see that?

8 A. Yes. Yes.

9 Q. What does that mean?

10 A. That refers to what we talked about earlier  
11 today. These automated price schedules, A, B, C, D,  
12 et cetera that we talked about, and how to price the  
13 claims based upon the terms of the contractual  
14 agreement between the health plan and the provider.

15 Q. If you could go to 2704 and 2705. You might  
16 want to start with 2703 where it says "Class Material  
17 #2."

18 A. Okay.

19 Q. Can you tell me, what are these two -- what  
20 are these two charts?

21 A. These are charts that were a process flow  
22 having to do with -- with, in this case, pharmacy or  
23 reimbursement work functions and relating to, in the  
24 very high level, you know, a module or a portion of  
25 the CHIP system that was used to handle those

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1 procedures that were being followed in these areas.

2 Q. Who drafted this chart?

3 A. I don't know.

4 Q. Do you know where you got it from for  
5 inclusion?

6 A. Well, I don't recall drafting this myself.  
7 That doesn't mean that I didn't. And if it wasn't me,  
8 it would have been those CHIP trainers that I talked  
9 to about earlier.

10 Q. And does it accurately reflect sort of a flow  
11 of the pharmacy operations that can be -- that can be  
12 tracked on the CHIP system?

13 A. It's very high level and it reflects a flow  
14 of what the CHIP system was used for in pharmacy  
15 operations.

16 Q. If you could go to the next chart. Do you  
17 know who created this?

18 A. Whoever created the previous one probably  
19 created this.

20 Q. Okay. And do you have independent  
21 recollection as to whether that was you?

22 A. I don't think that I created these.

23 Q. This says "Reimbursement/Financial  
24 Operations." What does this flowchart reflect?

25 A. It, for the most part, reflects the modules,

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1 major modules, some modules within the CHIP system  
2 that were used to handle these billing service  
3 functions and also the cash application part of it and  
4 some of the accounting aspects in terms of the types  
5 of sales reporting that would be produced and used by  
6 the accountants.

7 Q. What does "Contractual Deduction Table" mean?

8 A. I just want to -- I know this perfectly, but  
9 I need to explain it.

10 Q. Okay. Take your time.

11 A. Okay. Your list price -- we talked a lot  
12 about what list price is earlier in the sense of list  
13 price that would be on a claim that might go to a  
14 payer may not be what you expect to collect from the  
15 payer or ultimately all payers. And there are, I  
16 guess, three different reasons for that.

17 One is because there was this -- if it  
18 was a commercial payer, there would be some sort of a  
19 managed care agreement to actually discount your list  
20 price to something else. If it was a government  
21 payer, typically the government payer would be  
22 submitted charges that were list prices, but you knew  
23 what their -- they would have allowances for paying  
24 the claims. So you -- you could predict to some  
25 degree exactly what you're going to get paid and you

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1 knew it was going to be different from your list  
2 charges and less.

3 And the third reason was there would be  
4 certain occurrences where claims would just become  
5 uncollectible or bad debt. And in that I would also  
6 say sometimes it was uninsured and you figured you  
7 were going to write them off because of an indigent  
8 type case.

9 The contractual deduction table was a  
10 function in the system to say, okay, if my list price  
11 for a service claim was going to be a hundred dollars,  
12 I really think I'm only going to collect 55 of them,  
13 for the reasons I just explained. And so you would  
14 put in a couple of factors that say, hey, there's  
15 going to be a 40 percent reduction because if I do get  
16 paid and it's not a bad debt situation, this is what I  
17 think the payer is going to pay. And then there would  
18 be -- so I'm down to 60 percent. And then I might put  
19 in another five percent that says, you know, on  
20 average I might have a five percent bad debt  
21 situation.

22 So -- so the system had the capability  
23 to say, hey, of that hundred dollars that was going to  
24 be booked at a very gross level as a sales based on  
25 the list price, right upfront I think I'm only going

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1 to collect 55. So my net sale that I would actually  
2 want to book, you know, projection of revenue, would  
3 be \$55. And that's what the deduction table did.

4 Q. Okay. When you say "list price," you're  
5 talking about the list price in the item file in the  
6 CHIP system, right?

7 A. Well, and we added to that when you asked me  
8 about upcharges later, but, yes, it's all derived from  
9 the pricing setup in the item file, yes.

10 Q. You are not talking about the catalog prices  
11 for Abbott?

12 A. I am not.

13 Q. Okay. I just wanted to clarify because --

14 A. That's right.

15 Q. -- list price is a very specific term in this  
16 litigation.

17 A. Okay.

18 Q. What does "Accounts Receivable Adjustment"  
19 mean on this chart? Is that something similar?

20 A. No. This would be on the back end. Frankly,  
21 I can tell you it was on the back end. It would have  
22 had to be done with when you're getting the cash in,  
23 but beyond that I'm not sure what it meant by that.

24 Q. Okay. If you could go to 2707 and 2708 and  
25 take a look at this chart, please.

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1 A. Uh-huh.

2 Q. Did you create this chart?

3 A. I don't know.

4 Q. Okay. Could you have?

5 A. I could have.

6 Q. What does it reflect?

7 A. Well, it's another variation of workflow that  
8 we have been discussing in the past.

9 Q. Okay.

10 A. It's more oriented towards when you went  
11 through that workflow from referral to -- at least to  
12 some of the claiming, it's the types of functions on  
13 the CHIP system that there were.

14 So remember when I talked about ship  
15 confirmation that I was amazed I remember, you see  
16 that right on here. So that's what it is. It's  
17 talking about what you do on the CHIP system in order  
18 to do those processes and procedures.

19 Q. Does it accurately reflect -- do these two  
20 pages accurately reflect the workflow that can be  
21 monitored by the CHIP system?

22 A. Well, to the best of the ability that I have  
23 when I included this in the book, and maybe wrote it,  
24 it reflected the -- the portions of the CHIP system  
25 that were used to -- to -- to perform all of these

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1 procedures in that process that we talked about  
2 earlier.

3 Q. Okay. If you could go to 2712. Sir, what is  
4 this a list of?

5 A. It's entitled "Business Class/Insurance  
6 Types."

7 Q. Okay. And what does it reflect?

8 A. We had a way in the CHIP system to classify  
9 the type of health plan by major payer category. So  
10 you see some of that here ranging from CHAMPUS to  
11 commercial individual plan to commercial group plan to  
12 Medicare/Medicaid, and so on.

13 Q. Okay. Is it fair to say that the -- where it  
14 says "business class" and "insurance class," that  
15 those -- that within the CHIP system when you see "MC"  
16 for business class, that that means Medicare, and when  
17 you see "MD," that means Medicaid?

18 A. Yes, I think so.

19 Q. And then "MG" means Medigap?

20 A. Yes.

21 Q. Okay. Would -- would that be used --

22 A. Well, I mean, within the CHIP system.

23 Q. Within the CHIP system.

24 A. If you're looking -- within the context of  
25 some screen that you might have a print of, yeah.

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1 Q. Okay.

2 A. So ...

3 Q. So -- and that -- that goes -- that's my  
4 question is when you have a printout on a screen that  
5 says "business class" or "insurance type" and it says  
6 "MC" or "MD" or "MG," it's going to be Medicare,  
7 Medigap or Medicaid?

8 A. I don't recall exactly if there was some  
9 flexibility that one of the clients might have had.  
10 Rather than call it MC, call it MI. I don't recall if  
11 these were all fixed or not, but for the most part  
12 that's what people used, yes.

13 Q. Would this be what Abbott used?

14 A. Yes.

15 Q. Okay. If you could go to Page 2716, 17, 18  
16 and 19 and 20.

17 A. Uh-huh. Okay.

18 Q. Now, we've seen some of the -- we went over  
19 in your earlier deposition the item file data  
20 information. This appears to be a variation of that  
21 same information. Can you tell me, what is this  
22 series of pages of documents?

23 A. It's a documentation of some of the -- for  
24 the most part, at least, some of the data elements  
25 that were used on the item file that reflected data

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1 that was relevant to the sales and reimbursement  
2 claiming function.

3 Q. Okay. At the top it says "NDC number." Do  
4 you see that?

5 A. Yes.

6 Q. And it says "Required for all drugs."

7 A. Yes.

8 Q. "The NDC number is used to pull AWP from the  
9 Redbook."

10 A. Yes.

11 Q. What does that mean?

12 A. If AWP was important for the particular  
13 claim, then we imported into the CHIP system AWP  
14 information from the Redbook data source, data  
15 compendium. And the way to match up -- the way to --  
16 the way to match that AWP figure to the item record of  
17 a drug that would go ultimately on a claim was through  
18 NDC numbers. So you had to have an NDC number to  
19 watch it. That was your reference point.

20 Q. Why -- why were you -- why did you hook in  
21 the Redbook information?

22 A. Because the predominant way -- do I want to  
23 say predominant way? This was changing over time.

24 Q. Okay.

25 A. A more and more common way of being paid by

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1 commercial insurers during this five years that I was  
2 actually involved in reimbursement, and then even  
3 later on, was to have a contractual agreement or  
4 perhaps an individual case -- patient case negotiation  
5 where the payment for the drug itself was based upon  
6 AWP plus or minus some percentage.

7 So if your CHIP system was going to be  
8 able to book your net expected sales, it had to know  
9 what AWP was. If you had to submit your claim to the  
10 payer discounted by AWP, that is at -- you know, at  
11 a -- at an amount less than the Home Infusion Services  
12 list charge, this system needed to know what the AWP  
13 was in order that you could do that.

14 Q. Did Abbott have a license for AWP  
15 information?

16 MR. COLE: Object to the form.

17 A. Abbott had an agreement with Redbook to use  
18 the AWP information from Redbook for the CHIP system.

19 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Was that  
20 something that was Home Infusion specific or do you --  
21 do you have an understanding as to whether other  
22 business units could access that licensed information?

23 A. To the very best of my knowledge, it was Home  
24 Infusion specific.

25 Q. Okay.

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1 A. And I would have no knowledge of -- beyond  
2 Home Infusion on, you know, any of these compendiums  
3 and the data that would have been used or looked at by  
4 Abbott, either contractually or in any other way.

5 Q. Okay. But it's possible that, for example,  
6 Hospital Business Sector could have had access to the  
7 Redbook data, but you just would have not known about  
8 it?

9 MR. COLE: Object to the form.

10 A. I think it's pretty unlikely that they would  
11 have had routine access, if any access to it, from the  
12 use of the data that the Home Infusion Services  
13 business unit had. There was certainly nothing that I  
14 knew of that was set up structurally so that there was  
15 any sort of routine access of them to that data that  
16 was from this Redbook data that was being brought into  
17 the CHIP system, so --

18 Q. (BY MS. ST. PETER-GRIFFITH) Being brought  
19 into the CHIP system?

20 A. Yeah.

21 Q. But they might have had access to it  
22 elsewhere?

23 MR. COLE: Object to the form.

24 A. I have no knowledge of that.

25 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Did you

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1 know that Jerrie Cicerale reported list price,  
2 contract -- catalog price information to Redbook?

3 MR. COLE: Object to the form.

4 A. No, I don't think I knew that.

5 Q. (BY MS. ST. PETER-GRIFFITH) You referenced  
6 earlier contractual agreement to use AWP. Who was the  
7 contract between?

8 A. That would be a contract between the  
9 provider, which could have been one of our clients, or  
10 could have been Abbott, and a commercial health  
11 insurance plan.

12 Q. Okay. Now, for -- on the item file data  
13 elements, after "unit of measure" it says "current  
14 contract cost" and after that "current factory cost."

15 A. Uh-huh.

16 Q. Why was it important -- well, first of all,  
17 there was -- let me just confirm. There was an  
18 opportunity within the item -- item file data within  
19 the CHIP system to track current contract costs and  
20 current factory costs?

21 A. There was the capability to.

22 Q. Okay. Do you know whether Abbott did that?

23 A. This was beyond what I was responsible for.

24 I believe that there was tracking of costs and that is

25 something that the accounting department did and you

35 (Pages 399 to 402)

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<p style="text-align: right;">Page 403</p> <p>1 would need to talk to them to understand those 2 details. 3 Q. Okay. Were you familiar at all with how 4 current contract costs or current factory costs were 5 used? 6 A. I think probably at the time that I asked 7 some questions to try and figure it out, I don't 8 recall much of that, and I couldn't tell you that, no. 9 Q. Do you know whether anyone within the 10 reimbursement department when submitting claims to 11 Medicare or Medicaid, do you know whether they would 12 refer to the current contract cost or current factory 13 costs in estimating or providing to Medicaid or 14 Medicare the estimated acquisition costs for the 15 products? 16 A. Certainly not Medicare. 17 Q. Okay. What about Medicaid? 18 A. There were, I think, a situation or two, I 19 think I had mentioned this a month ago when we spoke, 20 that you were to provide an acquisition cost to 21 Medicaid for submitting claims to them. I don't 22 think this data was used, actually, for that though. 23 Q. But it was possible for the reimbursement 24 department folks to look in the item file data 25 information and obtain information concerning the</p>	<p style="text-align: right;">Page 405</p> <p>1 Q. Okay. Would anyone in reimbursement, to your 2 knowledge, have any access to the current contract 3 costs or the current factory costs? 4 A. Ask me that again. Anybody in the 5 reimbursement department? 6 Q. In the reimbursement department. 7 A. Have access? 8 Q. Right. On the CHIP system to the current 9 contract costs or the current factory costs. 10 A. My recollection is they weren't supposed to. 11 And as I had said earlier, this was really something 12 that was handled in the accounting area, so ... 13 Q. Well, do you know who set up the policy that 14 they weren't supposed to? 15 A. I inherited it, so I just kind of went along 16 with it. So I guess I have to honestly say no, not 17 really. 18 Q. Well, did you ever direct anyone within 19 Home -- within Home Infusion reimbursement that they 20 could not access current contract costs or current 21 factory costs? 22 A. Well, they were just -- there was sort of a 23 standard set of security flags. I mean, there was 24 like 200 flags that were used in the system identified 25 with the user as to what they could and couldn't do</p>
<p style="text-align: right;">Page 404</p> <p>1 current contract costs and the current factory costs? 2 A. Actually, that wasn't supposed to be the 3 case. The CHIP system had a pretty darn elaborate 4 security set so that you had to have -- be authorized 5 to view lots of data and the cost data was -- was well 6 protected and the typical individual in reimbursement 7 would never even see the cost data. 8 Q. Why was it set up that way? Why is it that 9 the reimbursement people couldn't access the current 10 contract costs or the current factory costs? 11 MR. COLE: Object to the form. 12 A. They would have no business reason to do so 13 and those decisions were made way before I came on 14 board, so ... 15 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Well, no 16 business reason that you were aware of? 17 A. No business reason that I was aware of. 18 Q. Okay. Do you know whether the use of the 19 factory cost data was unique to Home Infusion? 20 A. As opposed to the rest of Abbott? 21 Q. Yeah. 22 A. I have no knowledge of that. 23 Q. Or the rest of at least Hospital Business 24 Sector? 25 A. I have no knowledge of that.</p>	<p style="text-align: right;">Page 406</p> <p>1 and look at in the system. And so, you know, we had a 2 set of flags that would be used typically for 3 reimbursement specialists and those flags would be 4 turned off. That's my recollection of that. 5 Q. Okay. And that wasn't something that you saw 6 any reason to change? 7 A. The cost part of it wasn't within our 8 responsibilities in the reimbursement function. 9 Q. Did Abbott reimbursement personnel, when 10 submitting claims to Medicare or Medicaid, at any time 11 consider reporting to Medicaid or Medicare the 12 estimated acquisition costs for particular drugs 13 billed by J code? 14 MR. COLE: Object to the form. 15 A. Never to Medicare for sure and I -- I don't 16 really think that that was required by any Medicaid. 17 To the best of my knowledge, I don't think it was, and 18 there would have been no reason to do that. 19 Q. (BY MS. ST. PETER-GRIFFITH) Okay. You 20 referenced earlier the accounting area. What 21 accounting area were you referencing? 22 A. Home Infusion Services. 23 Q. Okay. If you could go to the next page, 24 2717. It says, "Primary Drug. This flag determines 25 whether or not the item's AWP will be included in" the</p>

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<p style="text-align: right;">Page 407</p> <p>1 "price schedule calculations that involve a percentage 2 of AWP." Do you see that? 3 A. Yes, I do. 4 Q. What does that mean? 5 A. Well, this was part of the automation. So 6 where I had said earlier, if AWP was necessary for -- 7 for establishing the charges on a claim to be 8 submitted to the payer, then -- you know, there are a 9 lot of drugs involved in Home Infusion Services for a 10 patient that's on therapy. Since you -- you know, if 11 you're doing a compound drug, there's what I like to 12 call the primary drug or the therapy. Acyclovir would 13 have been the primary drug. But there also may be 14 some prescription sterile water used, some 15 prescription diluent, 5W used. 16 And my recollection of this is that when 17 Abbott was -- Abbott's automation of this for when you 18 had to be submitting a claim reduced to an amount from 19 your list charge to whatever the AWP agreement -- 20 AWP-based agreement was, that we did this based upon 21 the component of the primary drug only if it was a 22 compounded therapy. And so there was something on the 23 item file that allowed you to determine what was a 24 primary drug and what might have been just something 25 else that goes into the compound. And I think that's</p>	<p style="text-align: right;">Page 409</p> <p>1 what I'm going to do -- what my game plan is is to 2 pass you off in a little bit. I would like to go 3 through the remaining pages of this manual and go over 4 the CHIP Reimbursement Module User's Guide in terms of 5 documents. And then I have a few series of questions. 6 MS. ST. PETER-GRIFFITH: But before we 7 get started, what I would like to do is mark 8 separately as exhibits the documents that we -- the 9 manuals that we have been looking for so that whoever 10 is reading this transcript isn't going nuts. 11 And the first manual I believe we used 12 was the Case Management Training Manual, which is 13 BR 00714 through 989. I don't think you need to pull 14 the original, Dave. I just want to mark this as -- 15 MR. STETLER: No, no. 16 MS. ST. PETER-GRIFFITH: -- an exhibit. 17 MR. STETLER: I was just going to get 18 what you were going to use next. Because I assume 19 that -- 20 MS. ST. PETER-GRIFFITH: Oh, the CHIP -- 21 yes. It's 1744. 22 So if I could -- if I could have the 23 court reporter mark this document beginning with 24 BR 00714 titled Case Management Training Manual as the 25 next exhibit.</p>
<p style="text-align: right;">Page 408</p> <p>1 what this flag was used for. 2 Q. Do you know where you pulled these materials 3 from that we've been looking at, the item data file 4 elements? 5 A. I believe that this was pulled from 6 documentation that had been put together at some point 7 in the past, either by the Contract Marketing 8 department, or possibly also by these -- this CHIP 9 training area that had preceded me. It could have 10 been either. 11 Q. Do you know whether copies of this 12 information was retained anywhere other than what you 13 sort of rescued during the general pitch session? 14 A. Beyond everything we talked about already, 15 no, I don't know that. 16 MS. ST. PETER-GRIFFITH: Okay. Why 17 don't we do this. I'm about to have, unfortunately, a 18 major coughing spell. So why don't we take a break 19 for lunch right now, if we could. 20 THE VIDEOGRAPHER: We are off the record 21 at 12:28 p.m. 22 (Lunch recess from 12:28 to 1:17) 23 THE VIDEOGRAPHER: Stand by, please. We 24 are back on the record at 1:17 p.m. 25 Q. (BY MS. ST. PETER-GRIFFITH) Mr. Rodman, I --</p>	<p style="text-align: right;">Page 410</p> <p>1 MR. COLE: Do we know what that is? 2 THE REPORTER: Yes. 1386. 3 MR. COLE: 1386? 4 THE REPORTER: Uh-huh. 5 MR. COLE: Thank you. 6 (Exhibit 1386 marked) 7 MS. ST. PETER-GRIFFITH: Is Margaret on? 8 No, she's going to call in. 9 And then what I would like to do is mark 10 the next -- the next manual that we looked at, which 11 was the Reimbursement Implementation Manual, BR 01407 12 is the beginning page and the ending page is BR 01503. 13 If we could mark that as the next exhibit. 14 THE REPORTER: 1387. 15 (Exhibit 1387 marked) 16 MS. ST. PETER-GRIFFITH: And then the 17 document that we're currently looking at, which is the 18 CHIP Reimbursement A-Z Class Materials, which begins 19 BR 02698 and ends BR 02906. If we could mark that as 20 the next exhibit. 21 THE REPORTER: You would like the one 22 marked that says "Master Copy"? 23 MS. ST. PETER-GRIFFITH: Yeah. They all 24 do. 25 THE REPORTER: Okay.</p>

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<p style="text-align: right;">Page 411</p> <p>1 (Exhibit 1388 marked)</p> <p>2 Q. (BY MS. ST. PETER-GRIFFITH) The court</p> <p>3 reporter actually just reminded me of a question that</p> <p>4 I wanted to ask. On the first page of our copies it</p> <p>5 says -- of the copies that were produced it says,</p> <p>6 "Master Copy." Do you see that, sir? And you can</p> <p>7 look at the exhibit that was just marked. Does that</p> <p>8 say that on the front of your binder? At the top,</p> <p>9 "Master Copy."</p> <p>10 A. Oh, yes, uh-huh.</p> <p>11 Q. Is that your handwriting?</p> <p>12 A. Actually, it doesn't look like my handwriting</p> <p>13 for some reason.</p> <p>14 Q. Do you know why it's labeled "Master Copy"?</p> <p>15 A. Yeah, I do. This was -- I -- these were</p> <p>16 manuals that I specifically maintained and used in the</p> <p>17 course of my job responsibilities and when we needed</p> <p>18 to duplicate, I kept one that I made sure I knew was</p> <p>19 the master copy for duplication --</p> <p>20 Q. I see.</p> <p>21 A. -- as opposed to any others that were sitting</p> <p>22 around.</p> <p>23 Q. Sir, if you could turn to BR 02718 in that</p> <p>24 manual.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 413</p> <p>1 A. It would have been labeled average wholesale</p> <p>2 price or maybe AWP or something to reflect that, yes.</p> <p>3 Q. Okay. Is this -- where it says, "Screen Two</p> <p>4 Fields," the description underneath average wholesale</p> <p>5 price, is that sort of a definition for CHIPs purposes</p> <p>6 of average wholesale price or what is that?</p> <p>7 MR. COLE: Object to the form.</p> <p>8 A. Where it starts to say average wholesale</p> <p>9 price --</p> <p>10 Q. (BY MS. ST. PETER-GRIFFITH) Right.</p> <p>11 A. -- the item -- the paragraph?</p> <p>12 Q. Yeah.</p> <p>13 MR. COLE: Object to the form.</p> <p>14 A. I would say that's an adequate description.</p> <p>15 It was a CHIP description of what's in that field.</p> <p>16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. And that</p> <p>17 information was pulled from the Redbook?</p> <p>18 A. Yes. And the user could change it as</p> <p>19 explained there.</p> <p>20 Q. Okay. Why would the user want to change it?</p> <p>21 MR. COLE: Object to the form.</p> <p>22 A. Because of -- I mean, it would be very rare,</p> <p>23 but the most likely case would be someone recognized</p> <p>24 that this AWP just wasn't saying it didn't make sense</p> <p>25 for the item. It was probably some sort of data</p>
<p style="text-align: right;">Page 412</p> <p>1 Q. Sir, what -- and -- and I believe it carries</p> <p>2 over to the next page as well. Can you tell me, what</p> <p>3 is this particular document?</p> <p>4 A. This is just a description of more fields</p> <p>5 that -- most of them, at least, if not all, were in</p> <p>6 the item file on the CHIP system and it's labeled</p> <p>7 "Screen Two," which means that we had more than one</p> <p>8 screen to display all these items. So this was screen</p> <p>9 two of two, I guess.</p> <p>10 Q. Okay. And it says -- if you move down the</p> <p>11 list, one, two, three, four, five items down it says</p> <p>12 "Avg Wholesale Price," do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What is -- what does that mean?</p> <p>15 A. Average wholesale price.</p> <p>16 Q. Okay. And where -- is there -- was there a</p> <p>17 particular screen that reflected average wholesale</p> <p>18 price?</p> <p>19 A. No. It would be a data element in this</p> <p>20 screen two.</p> <p>21 Q. Okay. What do you mean by that?</p> <p>22 A. A computer screen that you're looking at with</p> <p>23 display of data on the item file, a computer screen.</p> <p>24 Q. Okay. And it would say "average wholesale</p> <p>25 price"?</p>	<p style="text-align: right;">Page 414</p> <p>1 compendium error and perhaps coming from Redbook.</p> <p>2 That would be -- that would be -- a hypothetical</p> <p>3 example. It would be very rare, but that's why.</p> <p>4 Q. (BY MS. ST. PETER-GRIFFITH) Okay. If you</p> <p>5 could go to 02726, please?</p> <p>6 A. Okay.</p> <p>7 Q. And if you could look at -- first of all,</p> <p>8 what is this document?</p> <p>9 A. Well, on Page 02721, actually, is -- it shows</p> <p>10 what these screens look like, screen one and screen</p> <p>11 two that I'm just referencing. And then there is a</p> <p>12 typewritten number assigned to each data element</p> <p>13 within that. And then the remainder pages after are</p> <p>14 describing what that data element is. So this data</p> <p>15 element is describing what's in fields labeled 29</p> <p>16 through 33 on that earlier page.</p> <p>17 Q. Okay. So on Page 2721, when it says,</p> <p>18 "Average Wholesale Price 32," that's the number that</p> <p>19 corresponds to the -- to the entry?</p> <p>20 A. That's the number that corresponds to the</p> <p>21 description of the entry that is on Page 2726, yes.</p> <p>22 Q. Okay. And the same is true for Number 33,</p> <p>23 "AWP Effective" wholesale --</p> <p>24 A. That would be right.</p> <p>25 Q. -- "Effective date"?</p>

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<p style="text-align: right;">Page 415</p> <p>1 A. That would be right.</p> <p>2 Q. Why would you, in the CHIP system, have an</p> <p>3 average wholesale price effective date?</p> <p>4 A. Because they would change. And why would you</p> <p>5 want to know the date of the change? I'm not sure</p> <p>6 about that one.</p> <p>7 Q. Okay. It says on Page 2726, if you could</p> <p>8 flip to that.</p> <p>9 A. Yeah.</p> <p>10 Q. "Query Field Name." What does that mean?</p> <p>11 A. You could -- in addition to having reports on</p> <p>12 the CHIP system that a programmer would have</p> <p>13 programmed that the user could run, the -- actually,</p> <p>14 the IBM software behind the system had an ability to</p> <p>15 do what was called query -- query reporting, which</p> <p>16 means that both the programmers, as well as a trained</p> <p>17 end user of the system, could run customized reports</p> <p>18 from the CHIP system, something that wasn't a routine</p> <p>19 report that was part of the system that had been</p> <p>20 programmed by programmers. And in order to program a</p> <p>21 query report, you had to know the CHIP assigned data</p> <p>22 element name, and that's what these are.</p> <p>23 Q. Okay. If you could go to Page 02785, please.</p> <p>24 Actually, you know what, I'm going to have you flip to</p> <p>25 2788.</p>	<p style="text-align: right;">Page 417</p> <p>1 A. You know, I probably wrote this, but I don't</p> <p>2 know -- to be honest, I don't know what I had in mind</p> <p>3 at the time.</p> <p>4 Q. Did Abbott Home Infusion reimbursement have</p> <p>5 Medicare billing experts?</p> <p>6 A. No. I -- I would say that we -- within -- I</p> <p>7 mean, that department was probably 40 people large at</p> <p>8 one point and we would have -- some of the billers</p> <p>9 were more knowledgeable than others and you had to</p> <p>10 bill a particular payer, one of them being Medicare.</p> <p>11 There was some of that, but that's as far as I would</p> <p>12 go on that.</p> <p>13 Q. Okay. We are done with this manual, so why</p> <p>14 don't we move on to the next.</p> <p>15 MS. ST. PETER-GRIFFITH: And I'm going</p> <p>16 to ask that the court reporter mark -- I would like --</p> <p>17 it's the CHIP Reimbursement Module User's Guide, the</p> <p>18 big thick one. And it begins at BR 01744, appears to</p> <p>19 end at BR 02150. And I'm going to have the court</p> <p>20 reporter mark a copy of this separately, although,</p> <p>21 Mr. Rodman I would like you to work from your</p> <p>22 original.</p> <p>23 THE REPORTER: 1389.</p> <p>24 (Exhibit 1389 marked)</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 416</p> <p>1 A. Okay.</p> <p>2 Q. Sir, if you could look -- if you could just</p> <p>3 look at Step Number 17.</p> <p>4 A. Okay.</p> <p>5 Q. Well, first, can you tell me -- I apologize.</p> <p>6 I should have had you start at the beginning. Can you</p> <p>7 tell me what this document is with -- the document</p> <p>8 that begins with the steps?</p> <p>9 A. Well, it starts on Page 2781. It says here,</p> <p>10 "Class Exercise to Package Medicare Enteral Claim,</p> <p>11 Attach CMN, and Transmit Claim." So this,</p> <p>12 essentially, was a training exercising -- exercise to</p> <p>13 take the training attendees through the steps on the</p> <p>14 CHIP system to -- to put -- put together from the data</p> <p>15 that was in the CHIP system an enteral therapy claim</p> <p>16 to be transmitted to Medicare. That's what these</p> <p>17 steps are, step one, two, three, four, what you had to</p> <p>18 go through.</p> <p>19 Q. Okay. And on 2788, Step 17.</p> <p>20 A. Uh-huh.</p> <p>21 Q. The first sentence reads, "Next, you have</p> <p>22 your" -- "your Medicare billing expert check your</p> <p>23 work." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Who's the Medicare billing expert?</p>	<p style="text-align: right;">Page 418</p> <p>1 Q. (BY MS. ST. PETER-GRIFFITH) Sir, can you</p> <p>2 tell me, what is this document?</p> <p>3 A. This was a document intended to -- in fact,</p> <p>4 to be used as a reference guide for users of the CHIP</p> <p>5 system who were in the reimbursement function.</p> <p>6 MS. ST. PETER-GRIFFITH: Hold on a</p> <p>7 second. Mr. Stetler, is it okay if we proceed?</p> <p>8 MR. STETLER: Yes, please go.</p> <p>9 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Go ahead.</p> <p>10 A. Who were users of the CHIP system in the</p> <p>11 reimbursement functional area, the reimbursement</p> <p>12 department, of how to do things on the CHIP system.</p> <p>13 Q. Would this get -- would this be distributed</p> <p>14 to clients at all?</p> <p>15 A. Yes, it would have been.</p> <p>16 Q. Okay. Do you consider this to be a</p> <p>17 confidential document?</p> <p>18 MR. COLE: Object to the form.</p> <p>19 A. I guess, as I had said earlier, you know, do</p> <p>20 I think that this was Abbott property and that,</p> <p>21 therefore, it just shouldn't be given out to the</p> <p>22 general public willy-nilly? Sure. Do I think there's</p> <p>23 anything really highly confidential in terms of trade</p> <p>24 secrets, that sort of thing, or whatever? Not really.</p> <p>25 Q. Who wrote this?</p>

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<p style="text-align: right;">Page 419</p> <p>1 A. This is a compilation of materials. I  2 actually remember, roughly, when and who did this.  3 It's -- a project was assigned, my recollection, by  4 Virginia Tobiason to another individual, who is a peer  5 of mine, another reimbursement supervisor at the time,  6 to put together something quickly because we felt we  7 needed a reimbursement CHIP systems user guide for our  8 system and that's where this came from.  9 Q. Okay. Who was that person who put it  10 together?  11 A. Her name is Nancy McLoughlin.  12 Q. Did you participate at all in the compilation  13 of the materials that comprised this CHIP  14 Reimbursement Module User's Guide?  15 A. At that time I was not very much involved in  16 it. Later on I probably made some changes to this.  17 Q. Okay. When -- when was that put together?  18 A. I'm going to estimate 1980 -- or -- yeah,  19 1998.  20 Q. Okay. So it was before Ms. Tobiason left  21 Home Infusion?  22 A. Oh, definitely.  23 Q. Do you remember how long it took to put this  24 together?  25 A. Not really.</p>	<p style="text-align: right;">Page 421</p> <p>1 management within the business unit that a lot of  2 money had been put into the system. It was a pretty  3 darn good system and it was a way to bring in some  4 additional revenues into the business unit, like going  5 to sell that system per se as a system.  6 Q. Do you know who made that decision?  7 A. Well, Mike Sellers was general manager at the  8 time.  9 Q. Okay. Do you know whether he made the  10 decision?  11 A. Not for sure.  12 Q. Okay. But that would have been -- had to  13 have been something that would have had to have been  14 something signed off by, say, Don Robertson or someone  15 above Mr. Sellers?  16 A. I wouldn't know that.  17 Q. If you could go to Page 1763, please.  18 A. 17 -- oh, I'm sorry.  19 Q. 1763 at the bottom.  20 A. Okay.  21 Q. Sir, this is a page that has -- it says at  22 the bottom, "Reimbursement Master Files." Deduction  23 and allowance master files. Do you see that?  24 A. Yes.  25 Q. What are the CHIPs master files or</p>
<p style="text-align: right;">Page 420</p> <p>1 Q. Do you remember what the then intended use of  2 it was?  3 A. Well, in general, it was what I had  4 explained. It was for CHIP users of the function.  5 Q. Okay.  6 A. We, actually, in the business unit had made a  7 decision, "we" meaning upper management, to begin  8 selling the rights to have and use the CHIP system to  9 other home infusion companies as just a stand-alone  10 CHIP system, not -- not part of Abbott's other  11 strategy. So just -- you know, in effect, just like a  12 commercial software vendor would be selling a system  13 to, you know, somebody, another company. And so there  14 was a major effort to package together documents that  15 we never really had very well at the time that --  16 because every -- at the time every computer system  17 that was sort of a corporate type or company computer  18 system would have some sort of documentation manual or  19 set of manuals of how to use it. And that, actually,  20 was the impetus for putting together this quickly.  21 Q. Okay. Do you know why that decision was  22 made, just sort of off of this outside of the --  23 A. Yeah, I do, actually.  24 Q. Okay.  25 A. It was recognized by Abbott's -- Abbott</p>	<p style="text-align: right;">Page 422</p> <p>1 reimbursement master files?  2 A. Well, there were all sorts of databases in  3 the system and you would just call them different  4 files, essentially. So this was just a -- sort of a  5 terminology to say that there was a file called the  6 deduction allowance file and somebody decided to label  7 it and say it was a master file.  8 Q. Okay. What is the deduction allowance file?  9 A. Yeah. You asked me -- we talked about this  10 already and that was when I gave that example about  11 going from a hundred dollars to \$45.  12 Q. Okay.  13 A. This was actually the mechanism through  14 this -- through which that was done by.  15 Q. Okay. Meaning on the computer screen itself?  16 A. Well, you would set up your data in the CHIP  17 system through a user screen that then would be used  18 by the system to take that sort of deduction allowance  19 in order to move from your list charges down to what  20 you expected to collect for the reporting of sales.  21 Q. Okay. It says midway down in this screen  22 itself on this page, do you see where it says, "Opt,"  23 "Account," "BC." What does "Opt" mean?  24 A. Point to -- where are you looking?  25 Q. I'm sorry. I'm looking right here</p>

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<p style="text-align: right;">Page 423</p> <p>1 (indicating).</p> <p>2 A. Oh. Option.</p> <p>3 Q. Okay. What option?</p> <p>4 A. That's not shown here that I see, but there</p> <p>5 is one that's here. If you typed in a four here on</p> <p>6 that one line and you hit your entry key, it would</p> <p>7 probably delete that line.</p> <p>8 Q. Oh, I see. I see.</p> <p>9 A. There may have been -- I don't know whether</p> <p>10 or not it's shown. There's probably a two. I think a</p> <p>11 two was change, typically. So --</p> <p>12 Q. Okay. So --</p> <p>13 A. -- that's what that was.</p> <p>14 Q. Okay. What does "BC" mean?</p> <p>15 A. Business class. You had shown me that table</p> <p>16 earlier that showed the insureds types.</p> <p>17 Q. Okay. So if an MC was there, that might have</p> <p>18 meant Medicare?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Payer, is that -- or py -- "Payr,"</p> <p>21 what is --</p> <p>22 A. Payer.</p> <p>23 Q. That's payer?</p> <p>24 A. Health plan --</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 425</p> <p>1 Q. CHL?</p> <p>2 A. Chelation.</p> <p>3 Q. CHM?</p> <p>4 A. Chemotherapy.</p> <p>5 Q. CSF?</p> <p>6 A. Colony stimulating factors.</p> <p>7 Q. CTH?</p> <p>8 A. Catheter care. Can you believe I remember</p> <p>9 all this?</p> <p>10 Q. What does "List" mean?</p> <p>11 A. That would be -- not what you might be</p> <p>12 thinking.</p> <p>13 Q. Okay. That's why I'm asking.</p> <p>14 A. Every item in the --</p> <p>15 MR. STETLER: What do -- you tell a</p> <p>16 witness not to speculate as to what somebody might be</p> <p>17 thinking, but I didn't think you would extend it to</p> <p>18 you.</p> <p>19 A. Every -- every item product record in the</p> <p>20 item file would have a catalog number that was</p> <p>21 assigned to it and a catalog number actually had two</p> <p>22 components to it; one was called list, one was called</p> <p>23 IC. So this was the catalog number used in the CHIP</p> <p>24 system for the item that was in the item master file.</p> <p>25 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Would</p>
<p style="text-align: right;">Page 424</p> <p>1 A. -- better term for it, but payer, yes.</p> <p>2 Q. Why is there no information there? Is it</p> <p>3 because it needs to be completed?</p> <p>4 A. I'm sorry. Please repeat.</p> <p>5 Q. Why is there no information there? Is it</p> <p>6 because it needs to be completed?</p> <p>7 A. The system was pretty flexible in this area.</p> <p>8 It wasn't very common that you would -- you could set</p> <p>9 this up to take these types of deductions/allowances</p> <p>10 by -- by therapy, by type of insurance class. You</p> <p>11 could even do it by payer, by health plan. It wasn't</p> <p>12 very commonly done that way by health plan or payer</p> <p>13 and that's -- this is just an example that somebody</p> <p>14 put together, but that's why it's not in there.</p> <p>15 Q. Okay. Under -- the next one is "Thpy." What</p> <p>16 does that mean?</p> <p>17 A. Therapy.</p> <p>18 Q. And what is ABT therapy?</p> <p>19 A. Antibiotic.</p> <p>20 Q. Okay. What is ASL therapy?</p> <p>21 A. I think that stood for ancillary sets only.</p> <p>22 Q. Okay. BLD?</p> <p>23 A. Blood.</p> <p>24 Q. CAR?</p> <p>25 A. I believe that stood for cardiac therapy.</p>	<p style="text-align: right;">Page 426</p> <p>1 that be the Abbott catalog number?</p> <p>2 A. You know, for Abbott products that may have</p> <p>3 been the Abbott catalog number, yes. That list IC</p> <p>4 terminology, I don't recall what IC stood for, but</p> <p>5 that was something that I think was sort of a, you</p> <p>6 know, a crossover from how it was done elsewhere in</p> <p>7 the HPD division just in terms of the label that was</p> <p>8 assigned to this field when the system was built.</p> <p>9 Q. Okay. And what does "Contractual" mean?</p> <p>10 A. Actually, IC -- now that I remember, it</p> <p>11 stands for inventory code.</p> <p>12 Q. Oh, okay.</p> <p>13 A. So -- I'm sorry.</p> <p>14 Q. That's okay. The next item says "Contractual</p> <p>15 Pct or \$ Amount."</p> <p>16 A. Yeah.</p> <p>17 Q. What does that mean?</p> <p>18 A. Well, in this case, if a sale came through</p> <p>19 from a -- providing a therapy to a patient and the</p> <p>20 account number was WVU 0002 and the business class was</p> <p>21 OT and the therapy was ABT, that set, we were taking a</p> <p>22 100 percent contractual, which means we didn't expect</p> <p>23 to have any net revenue coming out of that</p> <p>24 transaction. So the sale that would be booked,</p> <p>25 actually, would be zero dollars.</p>

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1 Q. Okay. And what's bad debt percentage?

2 A. Well, in this case we were just saying the  
3 whole thing we didn't expect to collect and -- for  
4 whatever reason, but if that -- that -- that  
5 contractual column might have said 50 percent, which  
6 means we think we are going to get 50 percent of the  
7 list charges on the claim. But we are going to make  
8 an allowance that some percentage, say, five percent  
9 of all claims submitted that match up in these  
10 criteria are just going to be ultimately bad debt  
11 write-off situations. So that would be a field you  
12 could fill in on that.

13 Q. What about revenue share?

14 A. That would be a field that you could fill in  
15 to reflect the revenue sharing between Abbott and its  
16 client.

17 Q. Okay. Let me ask you this. If you wrote off  
18 a bad debt or took a reduction in reimbursement, would  
19 Abbott's revenue share go down?

20 A. Yes.

21 Q. How --

22 A. Well, why would it go down? I mean, the  
23 percentage would be the same, but the amount -- the  
24 amount of money collected would go down.

25 Q. Okay. Is it possible that Abbott could --

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1 then could take a loss on the cost of the product it  
2 furnished on a consignment basis?

3 A. On an individual transaction?

4 Q. Yeah.

5 A. Sure.

6 Q. And what is the other category?

7 A. It was another way of putting one of these,  
8 you know, estimated -- that you're going to get less  
9 sales for some reason. I actually don't recall that  
10 we ever used it.

11 Q. Okay. If you could go to BR 01768.

12 A. Okay.

13 Q. And this is "Forms Master Files." What is  
14 that?

15 A. Oh, okay. At the time to submit a claim to  
16 Medicare for home infusion therapies there was this  
17 document called a Certificate of Medical Necessity or  
18 CMN that ultimately had to be attested to by the  
19 physician that was ordering the therapy and -- but it  
20 was a form and either on paper or electronically the  
21 content of the form had to be submitted to Medicare.  
22 And this was a screen that was used in the automation  
23 of the generation of that form in the CHIP system.

24 Q. So you would generate the form letter and get  
25 the physician to sign it? Or Abbott would -- Abbott

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1 Home Infusion reimbursement would generate the form  
2 letter?

3 MR. COLE: Object to the form.

4 A. Actually, originally you could do that and,  
5 yes, it would -- it would be sent to the physician for  
6 signature and you had to have that before you  
7 submitted the claim. As time went on, the  
8 requirements of Medicare changed so that you weren't  
9 able to complete certain sections of the form that the  
10 physician was also supposed to complete. So there  
11 would be responsibility by the physician, or someone  
12 in the office, to also complete portions of the form.

13 Q. (BY MS. ST. PETER-GRIFFITH) Do you remember  
14 when that change occurred?

15 A. No. '90s.

16 Q. Okay.

17 MR. STETLER: And just one  
18 clarification. I think you've been saying "form  
19 letter" and he's been saying "form," if that's right,  
20 so maybe you want to clarify that.

21 Q. (BY MS. ST. PETER-GRIFFITH) Oh, okay. Yeah.  
22 What do you mean by "form"?

23 A. It's a form.

24 Q. It's an actual physical form?

25 A. Not a letter.

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1 Q. Not a letter.

2 A. It's a form.

3 Q. Okay. And that's -- that's what the -- that  
4 is what needed to be -- that's what the physician  
5 needed to complete?

6 A. To Medicare the physician is attesting to the  
7 reason for the therapy that Medicare is going to pay  
8 for. That's what this form is for.

9 Q. And how much of the form -- prior to that  
10 change in the '90s, how much of that form was  
11 completed by Abbott or by the CHIP system?

12 MR. COLE: Object to the form.

13 A. Well, by Abbott or -- or -- it could have  
14 been both, actually, but almost all of it would have  
15 been, other than the physician's signature.

16 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Now, if  
17 you look at that same page where it says business  
18 class. Is that an example we're using "MC" to  
19 represent Medicare?

20 A. Yes.

21 Q. If you could go to BR 01770. It says at the  
22 top "HCPCS Codes Master Files." Do you see that?

23 A. Uh-huh.

24 Q. What does "Medicare category" mean on that  
25 code screen?

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<p style="text-align: right;">Page 431</p> <p>1 A. I don't remember.</p> <p>2 Q. Okay.</p> <p>3 A. There might be something later that would</p> <p>4 trigger my memory.</p> <p>5 Q. 01778, please.</p> <p>6 A. Okay.</p> <p>7 Q. We've already discussed that CMN is</p> <p>8 Certificate of Medical Necessity.</p> <p>9 A. Uh-huh.</p> <p>10 Q. Is that the form that you were talking about</p> <p>11 before?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Under Item Number 5 it says,</p> <p>14 "supplier's charge for unit billed to Medicare." Do</p> <p>15 you see that?</p> <p>16 A. Yes.</p> <p>17 Q. What is that?</p> <p>18 A. At one point during the '90s a new</p> <p>19 requirement on these forms came out from Medicare,</p> <p>20 which was that the form had to have an estimate of the</p> <p>21 charges that the supplier, the provider, would be</p> <p>22 submitting to Medicare for the service that was being</p> <p>23 provided that this Certificate of Medical Necessity</p> <p>24 was for. So you had to have something on the form</p> <p>25 that the supplier would fill out so that then it would</p>	<p style="text-align: right;">Page 433</p> <p>1 home infusion providers are called suppliers. So all</p> <p>2 of the suppliers had access to and through either</p> <p>3 changes to those manuals, or other written</p> <p>4 communications that would come from a DMERC, you would</p> <p>5 be notified of these changes. And that's how we would</p> <p>6 learn about it.</p> <p>7 Q. (BY MS. ST. PETER-GRIFFITH) Who was</p> <p>8 responsible for monitoring that within the Home</p> <p>9 Infusion reimbursement department when you were there?</p> <p>10 A. Well, that responsibility was probably</p> <p>11 changed over time, as I recall. Myself and my</p> <p>12 colleague had some responsibility for monitoring those</p> <p>13 types of changes. Shellie Bronson, who was -- while</p> <p>14 she stayed -- before she left was a reimbursement</p> <p>15 trainer. She kept track of that. Virginia Tobiason</p> <p>16 was certainly involved in keeping track of those types</p> <p>17 of things, too. And also later on Keith Harper, you</p> <p>18 saw his name earlier, I reported directly to him, he</p> <p>19 in turn reported to Virginia and then later yet Mike</p> <p>20 Snouffer. So many people were involved in that.</p> <p>21 Q. What does Medicare schedule or "Medicare</p> <p>22 Sched" mean on that -- on that particular screen</p> <p>23 that's reflected on this page?</p> <p>24 MR. COLE: Still on 1778?</p> <p>25 MS. ST. PETER-GRIFFITH: Yes.</p>
<p style="text-align: right;">Page 432</p> <p>1 go to the physician, where the physician would then</p> <p>2 see that, as if they really cared, when they were</p> <p>3 signing that form and attested to what was on the</p> <p>4 form. That was why that was put in there. And, you</p> <p>5 know, there may have been a reason Medicare decided to</p> <p>6 do that, but at the time I wasn't following that, so I</p> <p>7 don't really know what triggered it. So we had a way</p> <p>8 in the CHIP system of doing some automation of putting</p> <p>9 a -- what the estimate of the charges that would be</p> <p>10 billed to Medicare on a section of the form that was</p> <p>11 the Certificate of Medical Necessity. And that's what</p> <p>12 this was used for.</p> <p>13 Q. When -- when a change like that was</p> <p>14 implemented by Medicare, or a comparable change was</p> <p>15 implicated by a Medicaid program, how would you learn</p> <p>16 about it? How would the Home Infusion reimbursement</p> <p>17 department learn about it?</p> <p>18 MR. COLE: Object to the form.</p> <p>19 A. Well, if it was for Medicare, the -- most of</p> <p>20 your -- the large, large majority of your claims were</p> <p>21 submitted to, during most of the tenure I was there,</p> <p>22 what were called durable medical equipment regional</p> <p>23 carriers, or DMERCs. And there were four of them.</p> <p>24 Each DMERC had a full set of procedure manuals,</p> <p>25 essentially, that all of the suppliers to Medicare</p>	<p style="text-align: right;">Page 434</p> <p>1 A. I can tell you what I believe it means.</p> <p>2 Q. (BY MS. ST. PETER-GRIFFITH) Okay.</p> <p>3 A. I believe it means it's the fee schedule that</p> <p>4 Medicare had published for payment of the claim that</p> <p>5 was coded with a 4221 per unit and I believe that's</p> <p>6 what that was.</p> <p>7 Q. Okay. If you could look at -- go to Page</p> <p>8 1794.</p> <p>9 A. Okay.</p> <p>10 Q. What is a CHIP tip?</p> <p>11 A. CHIP tip.</p> <p>12 Q. What are CHIP tips? It says -- it reflects</p> <p>13 it at the bottom of the page and it begins, I believe,</p> <p>14 14 pages earlier.</p> <p>15 A. Let me find the first page here.</p> <p>16 Q. It is 1782. I'm sorry. I should have had</p> <p>17 you probably start there.</p> <p>18 A. At some point in the development of</p> <p>19 documentation that a user would use, we were</p> <p>20 developing something that we labeled a CHIP tip, which</p> <p>21 was just another piece of user-type documentation of</p> <p>22 how to use the system. That's what --</p> <p>23 Q. Okay.</p> <p>24 A. -- a CHIP tip was.</p> <p>25 Q. Did you work on developing CHIP tips?</p>

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<p style="text-align: right;">Page 435</p> <p>1 A. Yeah, I think so.</p> <p>2 Q. If you could go to Page 1794.</p> <p>3 A. Uh-huh.</p> <p>4 Q. Are these just definitions or what -- what</p> <p>5 are these individual labels? Like "Cost of Goods</p> <p>6 Cold," "bb Billing Service," "bb Provider"?</p> <p>7 A. These, again, are more data elements in the</p> <p>8 CHIP system that had to be maintained in order to let</p> <p>9 the system do what it needed to do.</p> <p>10 Q. Okay. What is revenue sharing? Is there a</p> <p>11 field for revenue sharing?</p> <p>12 A. Well, as it says here, it's informational</p> <p>13 only, but it was intended to indicate that there was a</p> <p>14 revenue sharing agreement between Abbott and the</p> <p>15 particular client.</p> <p>16 Q. What about "Medicare Participant"? That also</p> <p>17 reflects it's information only. What did that mean?</p> <p>18 A. A supplier can agree to be a participating</p> <p>19 supplier in Medicare. If they did, it means that they</p> <p>20 accept as payment in full the Medicare fee schedule</p> <p>21 allowance less the patient co-pay and that the</p> <p>22 supplier can and should bill the patient for the</p> <p>23 co-pay, but cannot bill the patient for anything more</p> <p>24 than the co-pay.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 437</p> <p>1 a CHIP tip concerning revenue shares.</p> <p>2 A. Uh-huh.</p> <p>3 Q. Can you explain what this page means?</p> <p>4 A. Well, this is a portion of a CHIP tip and</p> <p>5 this page happens to be having something to do with</p> <p>6 revenue shares.</p> <p>7 Q. Okay. We had spoken earlier about how Abbott</p> <p>8 entered into these revenue share agreements with</p> <p>9 its -- with its clients.</p> <p>10 A. Uh-huh.</p> <p>11 Q. Is that what the revenue share information is</p> <p>12 intended to reflect?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Where it -- in the -- in the first</p> <p>15 "Exhibit 7 Revenue Shares" screen where it says share</p> <p>16 percentage. ABT means antibiotic, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And it says 75.5 percent.</p> <p>19 A. Yes.</p> <p>20 Q. Whose share was 75.5 percent?</p> <p>21 A. Well, first of all, the data is totally made</p> <p>22 up. It does not necessarily represent any reality.</p> <p>23 Having said that, in this example, you</p> <p>24 could actually see it on Exhibit 8 where now it's</p> <p>25 Rex's Home Infusion Services Company.</p>
<p style="text-align: right;">Page 436</p> <p>1 A. So that's essentially what it meant. You</p> <p>2 were participating in Medicare. If you didn't</p> <p>3 participate, then -- unless you filed the claim as if</p> <p>4 you were, then you could actually bill the patient for</p> <p>5 more than just the Medicare allowance co-pay amount.</p> <p>6 Q. Okay. If you could flip to Page 1797. Which</p> <p>7 is, I believe, Page -- the next -- three pages back.</p> <p>8 The -- first, actually, can I have you turn to 1795,</p> <p>9 please? Do you see in the screen where it says,</p> <p>10 "Account Cash Payment Address for Billing Service"?</p> <p>11 A. There's a screen, yes.</p> <p>12 Q. Yeah. Okay. "Abbott Hospital Home Care</p> <p>13 Services," do you see that?</p> <p>14 A. It's spelled wrong.</p> <p>15 Q. Yeah, I see that. What is Abbott Hospital</p> <p>16 Home Care Service?</p> <p>17 A. That was a made-up name of a --</p> <p>18 Q. Oh.</p> <p>19 A. That was, like I said, Ace Infusion Company.</p> <p>20 Q. Okay. I'm sorry.</p> <p>21 A. Just made up.</p> <p>22 Q. I just wanted to confirm it wasn't, you know,</p> <p>23 the actual title of the pharmacy or something.</p> <p>24 A. No.</p> <p>25 Q. If you could flip back to 1797 then. This is</p>	<p style="text-align: right;">Page 438</p> <p>1 Q. Okay.</p> <p>2 A. Okay. Of the collections of a thousand</p> <p>3 dollars for antibiotic during the time period, which</p> <p>4 was the month of December, Rex was going to receive --</p> <p>5 was going to get to keep 75.5 percent or \$755 and the</p> <p>6 account share, which would have reflected the Abbott</p> <p>7 amount, would be \$245.</p> <p>8 Q. Okay. That answers my question, but I want</p> <p>9 to just confirm. If I am looking at -- if I'm pulling</p> <p>10 up a CHIP system right now and I pull up this screen</p> <p>11 and it says "share percentage," the share percentage</p> <p>12 reflected is the client's share; is that right?</p> <p>13 A. Well, I see two share percentages. Oh, you</p> <p>14 mean here on --</p> <p>15 Q. On -- on Exhibit 7.</p> <p>16 A. You know, actually, there's -- this wasn't</p> <p>17 done consistently. You would say -- as I mentioned</p> <p>18 earlier, there were a lot of different businesses that</p> <p>19 were run on these CHIP systems and some of them had</p> <p>20 different databases and it kind of depended how you</p> <p>21 set up this field as to whether that share represented</p> <p>22 the Abbott share or whether it represented the client</p> <p>23 share. It would really depend on what you were</p> <p>24 looking at.</p> <p>25 Q. Okay. So it could vary --</p>

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1 A. It could.  
 2 Q. -- for client to client?  
 3 A. It could be either, yeah.  
 4 Q. Okay. I'm trying to flip through these here.  
 5 Bear with me. BR 1823.  
 6 A. Can we take a 60-second pause here?  
 7 Q. Absolutely.  
 8 A. My battery just ran out.  
 9 MS. ST. PETER-GRIFFITH: Why don't we  
 10 take a five-minute break.  
 11 THE WITNESS: I don't need that, unless  
 12 you do --  
 13 MS. ST. PETER-GRIFFITH: Oh, okay.  
 14 THE WITNESS: -- or somebody else does.  
 15 (Discussion off the record)  
 16 THE VIDEOGRAPHER: I've got about seven  
 17 minutes left on this tape.  
 18 MS. ST. PETER-GRIFFITH: Go right ahead  
 19 and change it.  
 20 THE VIDEOGRAPHER: We are off the record  
 21 at 1:57 p.m. with the end of Tape Number 3.  
 22 (Recess from 1:57 to 2:08)  
 23 THE VIDEOGRAPHER: We are back on the  
 24 record at 2:08 p.m. with the start of Tape Number 4.  
 25 Q. (BY MS. ST. PETER-GRIFFITH) Mr. Rodman, if

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1 you could look at Page 1823.  
 2 A. All right.  
 3 Q. This deals with "Override Pricing by List  
 4 Item." Do you see that?  
 5 A. Yes.  
 6 Q. What -- what does that mean?  
 7 A. Well, it's another one of these price  
 8 schedules or price codes, same thing.  
 9 Q. Okay. Would that -- can be -- where you can  
 10 override the list price or the list item --  
 11 A. Yes.  
 12 Q. -- price and input another price?  
 13 A. Well, the computer would do it automatically  
 14 based on the data that was put into it, yes.  
 15 Q. Okay. But I thought that the data that was  
 16 put into the system was the list item data.  
 17 A. Well, that's true, but these -- these --  
 18 these price schedules, or as labeled here price codes,  
 19 could be set up where -- to implement individual  
 20 agreements between the provider and a health plan and  
 21 that would be -- some pricing that would be different  
 22 than what your normal list prices would be.  
 23 Q. Okay. Under C, do you see at the bottom it  
 24 says, "Specific pricing per agreement with a physician  
 25 for drug set up in price ranges," do you see that?

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1 A. I do.  
 2 Q. What does that mean?  
 3 A. Well, there would be no agreement with the  
 4 physician. I have no idea why someone wrote that in  
 5 that way.  
 6 Q. Okay.  
 7 A. But it was -- in general, it was another  
 8 automated way of having a price that would be  
 9 different than your list price for the drug component  
 10 of your claim.  
 11 Q. Okay. And then it says the "Price is not AWP  
 12 based." Do you see that?  
 13 A. Yeah, I do.  
 14 Q. "Rather a price established for dosage  
 15 strength"?  
 16 A. Yeah, I do see that.  
 17 Q. Would there be any circumstances that you're  
 18 aware of where Abbott Home Infusion reimbursement  
 19 would bill for prices with -- per agreement with a  
 20 physician?  
 21 A. No.  
 22 Q. Okay. And you have no idea why that's in  
 23 there?  
 24 A. No. I suspect that whoever wrote it didn't  
 25 know what they were talking about when they wrote it.

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1 Q. Well, do you know who did write these --  
 2 A. I don't.  
 3 Q. -- price tips?  
 4 A. I don't.  
 5 Q. Moving things right along, especially for  
 6 Mr. Stetler's benefit. If we could go to Page --  
 7 MR. STETLER: No. This is one time  
 8 where I'm not in a hurry.  
 9 Q. (BY MS. ST. PETER-GRIFFITH) -- 1841, which  
 10 is sort of cut off on my copy. I think that's just  
 11 because it's a copy.  
 12 A. Yes.  
 13 Q. Okay. Sir, what is this?  
 14 A. Well, there were A, B, C all the way through  
 15 K and Z different price schedules, which is labeled  
 16 price code. They all had different capabilities to  
 17 try and automate the pricing of the claims based upon  
 18 the agreement between the payer and provider. And  
 19 there are a lot of options and a lot of complication  
 20 here and that's what -- this was all -- this was a --  
 21 a sheet that was -- one sheet intended to be, look, if  
 22 you knew something about them in general, you could  
 23 probably figure out just from this one reference sheet  
 24 right here what this price code did and how to use it  
 25 on the system.

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1 Q. Okay. It says -- under "Pricing" it says,  
2 "Method of Pricing" and then "Will it price AWP if  
3 Primary Drug Flag" equals yes. What does that mean?

4 A. That means that the price schedule had the  
5 capability, if other things were to happen that way,  
6 to create charges to go on a claim based upon AWP plus  
7 or minus some percentage. If -- for -- for drugs that  
8 would have been -- had this flag in the item file  
9 setup as a yes. Remember earlier I had said you have  
10 a compounded drug and you would have a sterile water  
11 and a diluent compounded into a primary drug like  
12 Acyclovir. And the way we were doing it, if it was  
13 AWP-based charges that was to be set up, the Acyclovir  
14 item would have the price flag set to yes on the item  
15 file, the other two would not. And that was matched  
16 up with this thing on the price schedule. You would  
17 end up by magic with a charge on the claim for the  
18 drug item that was based upon AWP of Acyclovir.

19 Q. Okay. Did you say by magic?

20 A. Yeah.

21 Q. By the magic of the CHIP system?

22 A. By the magic of the CHIP system.

23 Q. Okay.

24 A. The carefully programmed logic of the CHIP  
25 system impacted by the data that the user put in.

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1 Q. Okay. If you could go to BR 01925, please.

2 A. Okay.

3 Q. This is a "Claims Generation," it appears,  
4 page that is part of a claims processing, for lack of  
5 a better word, chapter; is that fair enough or section  
6 of the claims -- of the Reimbursement CHIP Module  
7 User's Guide?

8 A. Tab.

9 Q. Or tab. Okay. There we go. What does this  
10 page explain?

11 A. It's beginning to explain -- I had -- way  
12 back early this morning I had talked about the process  
13 at one point you would generate claims. You remember  
14 I said with Medicare we usually generated claims once  
15 a month?

16 Q. Yep.

17 A. This is explaining how to do it on the  
18 system.

19 Q. Okay. Now, at the bottom it says, "'Claim  
20 Format' area to determine how ... HCFA 1500/UB 92  
21 forms." Do you see that?

22 A. Yes.

23 Q. I think we've discussed what HCFA 1500 form  
24 is in your prior testimony, but what's a UB 92?

25 A. That's another type of claim form that is

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1 used to -- by some providers to submit healthcare  
2 claims to some payers.

3 Q. Would that be for Medicare or Medicaid?

4 A. It certainly would be, but very rare, if at  
5 all, for home infusion.

6 Q. Okay. How come?

7 A. With the exception of the home infusion  
8 nursing.

9 Q. Okay. What's -- what -- what is billed on a  
10 UB 92?

11 A. In general, in healthcare -- in the  
12 healthcare industry, the UB 92 form, or the electronic  
13 equivalent of it, at that time, it's now called the UB  
14 04 form, are what hospital claims, nursing services  
15 claims, like home nursing --

16 Q. Okay.

17 A. -- and perhaps certain other types of claims  
18 are billed on. Whereas at the time what was called  
19 the HCFA 1500 claim form would be used by physicians,  
20 it would be used by home infusion provider pharmacy  
21 groups. It would be used by DME suppliers and a  
22 number of others.

23 And what form you actually had to submit  
24 to what payer on depended on who the payer was, as  
25 well as who you were. It was not, and still is not,

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1 totally consistent throughout the industry. And then  
2 there would be custom forms sometimes.

3 Q. Custom forms as customized by the provider?

4 A. By the payer.

5 Q. Oh, okay. If you could go to 1944.

6 A. Uh-huh.

7 Q. Sir, what is -- what does this page describe?

8 A. The CHIP system did have the capability to  
9 electronically send claims to Medicare and this is  
10 describing how the reimbursement user would be making  
11 some of that happen. You would be transmitting the  
12 equivalent of what -- if it had been a paper claim on  
13 the 1500 form, you would be transmitting the  
14 equivalent computer to computer. That's what this is  
15 about.

16 MS. ST. PETER-GRIFFITH: Okay. You know  
17 what, can we take a break? Or I need to take a break.  
18 If you would like to continue, I have no problem with  
19 them starting and I can come back and finish. Do you  
20 want to do that? Just let --

21 MR. STETLER: Whatever you want. I  
22 don't care.

23 MS. ST. PETER-GRIFFITH: Do you have any  
24 problem with that?

25 MR. COLE: Not at all.

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<p style="text-align: right;">Page 447</p> <p>1 MS. ST. PETER-GRIFFITH: I've just got 2 to take a break right now. 3 And, Susan, do you want to start or 4 Eliseo? It doesn't matter. And then I'll come back. 5 I've got probably six more pages to go over in this. 6 Would you mind doing that? 7 MR. STETLER: I should tell you, I have 8 a cookie for anybody who finishes. So if you finish 9 now, you'll get your cookie sooner. 10 MS. THOMAS: Do you want to take a break 11 for a few minutes? 12 MS. ST. PETER-GRIFFITH: Well, we've 13 already taken a bit of a break, so I just want -- I 14 know Mr. Rodman wants to get out of here. I just 15 personally need to break, so why don't we do that. 16 I'll break and then you can -- you can start and then 17 I'll come back, if you don't mind. 18 MS. THOMAS: Not a problem. 19 EXAMINATION 20 BY MS. THOMAS: 21 Q. Good afternoon, Mr. Rodman. I introduced 22 myself before. My name is Susan Thomas. I'm an 23 attorney from Berger &amp; Montague in Philadelphia 24 representing the Relator or the whistleblower, 25 Ven-A-Care of the Florida Keys, in this litigation.</p>	<p style="text-align: right;">Page 449</p> <p>1 after he left Home Infusion Services. 2 Q. And do you happen to know where in Abbott 3 Ms. Kreklow had previously worked? Prior to joining 4 Home Infusion, I'm sorry. 5 A. Well, she had been in Home Infusion possibly 6 as long as I had been there, since 1993. And prior to 7 that I think she came out of the sales side. I really 8 don't know the specifics. 9 Q. But in 2001 she was working for Home 10 Infusion? 11 A. Yes. 12 Q. For Abbott's Home Infusion? 13 A. Oh, yes. 14 Q. If I could ask you to take a look at this 15 document. 16 MR. STETLER: Hand the original to him? 17 MS. THOMAS: Yeah. 18 MR. STETLER: Okay. 19 THE WITNESS: Well, good Lord. Okay. 20 Q. (BY MS. THOMAS) There is no grade on this 21 one that I could find. It just seems to be a -- 22 MR. STETLER: Or puffery. 23 Q. (BY MS. THOMAS) -- preliminary copy. If -- 24 if you would look, sir -- first of all, do you 25 recognize this document?</p>
<p style="text-align: right;">Page 448</p> <p>1 A. Good afternoon. 2 Q. And the very first thing I will tell you is I 3 will not go anywhere near as long as the Department of 4 Justice. 5 A. Oh, thank you. 6 Q. So -- 7 A. And if you tell me you're not going to step 8 through these manuals, that would be even better. 9 Q. I will not be going through the manuals 10 either. 11 A. All right. 12 MS. THOMAS: Mr. Stetler, could you 13 possibly pull Document 8 through 13? 14 MR. STETLER: 8 through 13? 15 MS. THOMAS: Yes, please. 16 Q. (BY MS. THOMAS) And while he's doing that, 17 in 2001 -- well, let me ask you this: Who was Karla 18 Kreklow? 19 A. Or is. 20 Q. Is. 21 A. At the time she was -- she had a title of 22 director, but she, in effect, replaced Mike Sellers 23 functionally as general manager of Home Infusion 24 Services. She reported to Mike. Mike still oversaw 25 it, along with his other responsibilities at that time</p>	<p style="text-align: right;">Page 450</p> <p>1 A. Vaguely. 2 Q. Would that mean, perhaps, that you recognize 3 this type of document, but you're not positive if you 4 recall this particular iteration? 5 A. I mean, I'm still looking and thinking on it, 6 so -- 7 Q. Okay. Please go right ahead. 8 A. Sure. (Witness reviewing document). Well -- 9 Q. And feel free to take whatever time you want. 10 A. -- you know, this had something to do with 11 the performance assessment or performance review. The 12 first three pages of it -- or first two pages are 13 stapled together with the remaining pages. I'm not 14 sure if that means that this was done at the same time 15 or not. I see on these first two pages sort of a 16 general generic listing of competencies and some 17 description of them and it says, "I do react," so I 18 must have written this self-evaluation, apparently. I 19 don't remember doing it, but that's what it appears to 20 be. 21 Q. Okay. 22 A. Then the third page -- right. It looks like 23 I wrote this, too. It was sort of -- I was to be 24 filling out as part of a performance review, something 25 about how good a -- how great a person I am and what I</p>

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<p style="text-align: right;">Page 451</p> <p>1 need to address in a growth plan. So that looks like  2 I filled that out. And then --  3 Q. Actually, if you don't mind my interrupting  4 you.  5 A. Sure.  6 Q. My questions only pertain to the first two  7 pages.  8 A. Oh, okay.  9 Q. So if --  10 A. Then we'll stop.  11 Q. -- if you would like, we could stop there.  12 A. No, I don't want to. Okay.  13 Q. Okay. If you would look at the -- in the  14 bottom right-hand square, where it says, "I make many  15 efforts and am successful in working with others." Do  16 you see that?  17 A. Yes, uh-huh.  18 Q. The second sentence of that reads, "As  19 examples, I frequently provide 'heads up' notices to  20 others, and communicate industry news on developments  21 to others that may be their responsibilities (in  22 particular, Reimbursement Management)."  23 A. Uh-huh.  24 Q. Did I read that correctly?  25 A. Yes.</p>	<p style="text-align: right;">Page 453</p> <p>1 Abbott who had anything to do with reimbursement, to  2 your knowledge? And I mean outside of Home Infusion.  3 MR. COLE: Object to the form.  4 A. I would have no specific knowledge of that.  5 I'm not even sure what reimbursement would mean in  6 that context.  7 Q. (BY MS. THOMAS) Do you ever recall  8 discussing any reimbursement concepts with people  9 outside of Home Infusion?  10 MR. COLE: Object to the form.  11 A. I do remember discussing reimbursement coding  12 with a group outside of Home Infusion.  13 Q. (BY MS. THOMAS) What do you mean by  14 "reimbursement coding"?  15 A. I was an industry leader at that time of a  16 group called the Home Infusion EDI Coalition and  17 working with other industry participants and also the  18 National Home Infusion Association to bring forward a  19 consistency of how you coded a claim. The procedure  20 codes that you used to submit a claim from provider to  21 payer so that it would be consistent across multiple  22 payers and the providers, too, to make coding much  23 more efficient, to make the reimbursement more  24 efficient and make it work better, get paid quicker.  25 And, actually, we in the Home Infusion</p>
<p style="text-align: right;">Page 452</p> <p>1 Q. Okay. Could you explain what you were  2 referring to there as the type of skill or -- or task  3 that you performed?  4 A. When I was in this role, which it says here  5 was in 2001, I was -- and this is when I was in the  6 role of the CHIP system product manager, I had learned  7 this business better and I was looking at other  8 industry developments that I would read from the news.  9 I guess we had -- or we had Internet by then, that  10 sort of thing. So I guess when I saw things I used to  11 communicate them to others, especially with respect to  12 reimbursement, which is kind of where my experience  13 had been --  14 Q. Okay. So --  15 A. -- in the past.  16 Q. -- when you refer there to reimbursement  17 management, what particular group were you referring  18 to?  19 A. Well, I was no longer in the reimbursement  20 department at that time, so that would have been what  21 the -- the management of the reimbursement department  22 at that time.  23 Q. Within Home Infusion?  24 A. Yes.  25 Q. Were there other people in other divisions at</p>	<p style="text-align: right;">Page 454</p> <p>1 EDI Coalition we had a very significant accomplishment  2 at that time that -- for commercial health plans. We  3 were able to achieve a result where we got the HCPCS  4 administration entity to put in a number of codes that  5 were per diem or per day charges for various home  6 infusion therapy services. And I actually led that  7 effort and got a lot of credit for that externally in  8 the industry. In fact, that's in large part how I  9 ended up getting my job currently for the National  10 Home Infusion Association.  11 So I do recall having a -- a  12 presentation, I think, or conversation with the  13 marketing management in the Alternate Site area about  14 this just to educate them.  15 Q. Do you recall approximately when that was?  16 A. Well, it was sometime between 2000 and the  17 beginning of 2003.  18 Q. I believe you referred to --  19 A. And, you know, I mean, I could narrow it  20 down. Probably 2001, 2002.  21 Q. And when you say "marketing management in Alt  22 Site," can you be more specific as to the meaning?  23 A. Well, the general manager in the Alternate  24 Site group within the Hospital Products Division and I  25 think a couple of his reports, direct and report, but</p>

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1 essentially in what was called the marketing side.  
 2 Q. Okay. And the general manager you're  
 3 referring to is who?  
 4 A. Does Sean Murphy sounds right to you folks?  
 5 MR. STETLER: She gets to ask the  
 6 questions, sorry.  
 7 A. I know. Yeah. I hope I'm telling you --  
 8 Q. (BY MS. THOMAS) I'm not trying to play games  
 9 with you.  
 10 A. No. I understand.  
 11 Q. I wouldn't know that name. I'm sorry.  
 12 A. I believe Sean Murphy.  
 13 Q. Is that a male or female?  
 14 A. That would be a male.  
 15 Q. And what was his position?  
 16 A. He would have been the general manager of the  
 17 Alternate Site's -- what was called the Alternate  
 18 Site's business unit at the time.  
 19 Q. And you mentioned, also, I guess I should  
 20 have know it was a he, because you mentioned "and  
 21 several of his reports." People that reported to him.  
 22 A. I think so, yeah.  
 23 Q. Who were they?  
 24 A. I can't recall specifically who would have  
 25 been there.

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1 Q. Do you have any recollection of anyone?  
 2 A. I know who some of those people were, but I  
 3 cannot report -- I cannot tell you that they would  
 4 have been in the session that I'm recalling.  
 5 Q. Okay. Who are the people that you recall  
 6 that reported to him?  
 7 A. Well, to him directly or indirectly some  
 8 names I remember, Jim Custud, Craig Smith. That's  
 9 who's coming to me right now.  
 10 Q. And what type of meeting was this that you  
 11 had?  
 12 A. I'm sorry, Sean -- it could have been Sean  
 13 O'Donnell, too. I'm struggling, I'm sorry. So I'm  
 14 going to tell you it's more likely Sean O'Donnell than  
 15 Sean Murphy.  
 16 Q. Okay. And what was the nature of this  
 17 meeting?  
 18 A. My recollection is at some point, you know,  
 19 they -- they -- I mean, any -- any -- you know, a  
 20 manufacturer will have some interest in understanding  
 21 how their customers are being reimbursed and -- and I  
 22 think that the reason they would have an interest in  
 23 this is simply to understand the basis of the coding  
 24 and what had developed that we had achieved, actually,  
 25 as an industry provider group during that time.

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1 Q. So as best you recall, your meeting dealt  
 2 particularly with that accomplishment that you  
 3 referred to earlier about the per diem codes?  
 4 A. That's my best recollection, yes.  
 5 Q. Okay. And as best you recall, you were asked  
 6 to go and report to that group or present to that  
 7 group?  
 8 A. I can't recall how that happened.  
 9 Q. Do you have any recollection of whether you  
 10 initiated it or they came to you?  
 11 A. I don't have a recollection.  
 12 Q. Now, when you referred to working on the EDI  
 13 project, for lack of a better name, was there anyone  
 14 from Abbott outside of Home Infusion with whom you  
 15 worked on that effort?  
 16 A. No.  
 17 Q. Do you have any recollection at the meeting  
 18 that you referred to with people from Alt Site whether  
 19 Pete Baker was in attendance?  
 20 A. I don't have a recollection that he was. I  
 21 think he -- I think he probably wasn't.  
 22 Q. Ted Lyjak?  
 23 A. Ted could have been.  
 24 Q. Jeff --  
 25 A. But that's only could. I don't recall.

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1 Q. Jeff Balzer?  
 2 A. He could have been.  
 3 Q. Do you know these people?  
 4 A. Vaguely. Well, Pete Baker I know better,  
 5 but, you know. I mean, I know them to some degree,  
 6 not a lot, you know, some a little better than others.  
 7 Q. Was Karla Kreklow at that meeting?  
 8 A. I don't recall that she was.  
 9 Q. If you'll look back in the document, in that  
 10 same square that we were looking at. If you would  
 11 look, please, sir, at the last sentence that begins,  
 12 "I have been willing to assist clients at request of  
 13 sales representatives."  
 14 A. Uh-huh.  
 15 Q. What sale -- what type of sales  
 16 representatives are you referring to?  
 17 A. Abbott Home Infusion Services sales  
 18 representatives.  
 19 Q. And so the clients that you're referring to  
 20 are the same clients or customers that you've been  
 21 talking about --  
 22 A. Yes.  
 23 Q. -- much of the day?  
 24 A. Uh-huh.  
 25 Q. Okay. Other than this one meeting that you

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1 mentioned with Alt Site, can you remember any other  
2 occasions when on some type of formal basis you  
3 communicated with anyone from HPD or Alt Site about  
4 any reimbursement issues?

5 A. No.

6 Q. Did you have the impression while you were  
7 working at Home Infusion that there was an  
8 institutional effort by Abbott to kind of wall off  
9 that division from the rest of the company?

10 MR. COLE: Object to the form.

11 A. I am not aware of any intent to do that. I  
12 am aware that the Home Infusion business unit worked  
13 pretty independently from the rest of Abbott. At  
14 least at the level of involvement that I was at. It  
15 was, in many ways, like a small business within a --  
16 you know, far removed from a much larger business. We  
17 had many of our own processes and procedures. We  
18 were -- you know, our function was pretty homogeneous  
19 in terms of we had particular business objectives and  
20 did particular things that were very unlike the rest  
21 of anywhere else in Abbott.

22 The history of the group before I got  
23 there was it was in a little building that was lease  
24 space that wasn't even with anybody else at Abbott for  
25 its first eight or nine, 10 years of existence. But

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1 in terms of intent, I would have no knowledge of that  
2 one way or the other.

3 Q. (BY MS. THOMAS) You were never told that  
4 there was any information known within Home Infusion  
5 that was not to be shared outside of that division; is  
6 that correct?

7 MR. COLE: Object to the form.

8 A. I don't recall any specific instances like  
9 that.

10 Q. (BY MS. THOMAS) Did you ever provide any  
11 kind of information or explanation to any of the sales  
12 personnel at HPD about the types of interests that  
13 their clients might have in reimbursement issues?

14 A. I can't --

15 MR. COLE: Object to the form.

16 A. -- recall any.

17 Q. (BY MS. THOMAS) You don't ever remember  
18 being asked?

19 A. I do not.

20 Q. If you would look on the next page of the  
21 same document, 009. And, again, by chance in the  
22 bottom right-hand box. If you would just take a  
23 minute, please, sir, to read that box to yourself.

24 A. (Witness reviewing document). Okay.

25 Q. Now, in that paragraph there you were

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1 addressing a topic generally referred to as integrity;  
2 is that correct? It's all the way on the left, the  
3 heading.

4 A. Yes.

5 Q. And you start off by saying that you were  
6 often complimented by clients for being straight with  
7 them and that you communicate well and do not mislead  
8 through falsehoods. Do you see where I'm referring?

9 A. Uh-huh.

10 Q. Did you have the perception that your clients  
11 felt that that characteristic of yours stuck out at  
12 Abbott --

13 MR. COLE: Object --

14 Q. (BY MS. THOMAS) -- as being different than  
15 others?

16 MR. COLE: Object to the form.

17 A. I have no perception like that.

18 Q. (BY MS. THOMAS) Did anybody ever say  
19 anything like that to you?

20 A. Not that I can recall.

21 Q. Did you think that there was -- did you read  
22 anything into the fact that apparently some number of  
23 clients went out of their way to point out that they  
24 appreciated you being straight with them?

25 MR. COLE: Object to the form.

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1 A. I don't recall any instances like that.

2 MS. THOMAS: I'm sorry. Could you read  
3 back the question and answer, please?

4 (Requested portion was read)

5 Q. (BY MS. THOMAS) Okay. I'm sorry. I  
6 don't -- I don't quite understand your answer. I was  
7 asking if you read anything -- I assume there were a  
8 number of instances in which your clients had made a  
9 point of saying that you had been straight with them  
10 because you -- right here, "I am often complimented,"  
11 correct?

12 A. I had a good relationship with my clients. I  
13 was boasting about myself here. Because, you know, if  
14 you do a performance self-appraisal that you're going  
15 to show your senior management or your manager,  
16 anybody that has any brains is going to boast about  
17 themselves and have very little bad things about  
18 themselves. So that's what you're reading here. So  
19 what more can I say?

20 There is no intent here to imply  
21 anything about anybody else and how they operated at  
22 Abbott. I do believe I had a very good relationship  
23 with most clients that I ever worked with while I was  
24 at Abbott, as I do believe I have now in my current  
25 position. But I think to read more than that is

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1 something that shouldn't be done.  
 2 Q. So you did not read into the communications  
 3 with the clients that they felt that your tendency to  
 4 be straight and not mislead made you stick out  
 5 somewhat at Abbott?  
 6 A. I did -- I do not recall reading into that  
 7 and I don't recall -- and I don't -- that's not what I  
 8 think now.  
 9 MS. THOMAS: Okay. If I could bother  
 10 you for Page 15.  
 11 MR. STETLER: Are we done with those?  
 12 I'll put them back.  
 13 MS. THOMAS: Yes.  
 14 A. (Witness reviewing document).  
 15 Q. (BY MS. THOMAS) Have you had a chance to  
 16 look at this?  
 17 A. Yes.  
 18 Q. This document appears to have been signed by  
 19 Karla Kreklow at the bottom?  
 20 A. Yes.  
 21 Q. And is that Michael Sellers?  
 22 A. It is.  
 23 Q. Okay. Do you recall either of those people,  
 24 whether in writing through this document or orally,  
 25 communicating to you the need for you to take any more

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1 proactive role in communicating reimbursement  
 2 information?  
 3 MR. COLE: I'm sorry, Counsel. What  
 4 page are we on?  
 5 MS. ST. PETER-GRIFFITH: 15.  
 6 MR. COLE: 15. Thank you.  
 7 A. I don't recall them having done that. Is  
 8 that in the document here somewhere?  
 9 Q. (BY MS. THOMAS) I'm sorry?  
 10 A. Is that in the document here somewhere?  
 11 Q. The "Areas for Improvement."  
 12 A. Uh-huh.  
 13 Q. The third paragraph. "Assume a more active  
 14 role in providing break through reimbursement  
 15 information which impacts our clients and ultimately  
 16 the business."  
 17 A. I don't have any recollection of that.  
 18 Q. You don't recall discussing that subject  
 19 matter with either Ms. Kreklow or Mr. Sellers?  
 20 A. I don't.  
 21 Q. Do you have any recollection, as you sit here  
 22 today, of what they were referring to?  
 23 A. No.  
 24 Q. What they were looking for by a more active  
 25 role?

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1 A. No, I don't.  
 2 Q. You testified earlier in response to a  
 3 question from the DOJ attorney when she asked you did  
 4 Abbott reimbursement personnel and Home Infusion ever  
 5 consider submitting EAC on to Medicare or Medicaid.  
 6 Do you recall that?  
 7 A. A what?  
 8 Q. Estimated acquisition cost. I'm sorry. It  
 9 was just this afternoon after lunch, I believe.  
 10 A. Could you repeat the question? I'm sorry.  
 11 MR. COLE: Whether -- go ahead.  
 12 Q. (BY MS. THOMAS) Do you recall answering the  
 13 question about whether Abbott reimbursement personnel  
 14 ever considered submitting estimated acquisition cost  
 15 to Medicare or Medicaid and you responded, "definitely  
 16 not to Medicare" and you don't think it was required  
 17 by the Medicais.  
 18 A. I do recall that now, uh-huh.  
 19 Q. Okay.  
 20 MR. COLE: For the record, I'll just --  
 21 I believe I objected to that question the first time  
 22 it was posed and I'll just reassert the same objection  
 23 now.  
 24 Q. (BY MS. THOMAS) In that context of -- of  
 25 what Medicare, or any of the Medicaid programs were

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1 requiring to be submitted by way of price information  
 2 on a claim, can you explain your understanding during  
 3 the time that you worked for Home Infusion, let's  
 4 start with of what Medicare -- of what price  
 5 information Medicare was requesting on a claim  
 6 submission?  
 7 A. Well, I think it would be better to state it  
 8 in that what the practice was than what Medicare was  
 9 requesting. I don't know that Medicare requested  
 10 anything in particular. The practice was that a  
 11 provider, and in this case the -- you know, the  
 12 Abbott-produced claims, would contain these usual and  
 13 customary charges on them when those charges were  
 14 submitted to Medicare.  
 15 THE WITNESS: Excuse us for a minute.  
 16 Where is my mic?  
 17 THE VIDEOGRAPHER: It fell off your  
 18 shirt.  
 19 THE WITNESS: Oh, is that what happened?  
 20 MS. THOMAS: Can you still hear him?  
 21 THE VIDEOGRAPHER: Yes.  
 22 THE WITNESS: Sorry. Okay.  
 23 Q. (BY MS. THOMAS) Okay. If you would, sir, I  
 24 don't think that really answers my question. You kind  
 25 of rephrased it as it would be better to state what

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1 the practice was, but --

2 MR. STETLER: But he prefaced it by  
3 saying, "I don't think they required anything," which  
4 I think he answered it right there.

5 MS. THOMAS: He did say that as well.

6 Q. (BY MS. THOMAS) Actually, I believe what you  
7 said was you don't know that Medicare required  
8 anything in particular.

9 A. If you say that's what I said I said.

10 Q. Is that the best answer you can give to what  
11 your understanding was of what Medicare required to be  
12 submitted on a claim form? And this is for a drug  
13 product.

14 A. Yes.

15 Q. That you don't know that they requested  
16 anything in particular.

17 A. Well, they expected to see some charges if  
18 you were going to bill them for it.

19 Q. Okay.

20 A. There was -- you know, I'm not aware of then,  
21 I'm not aware even now, that there is -- for Medicare  
22 that there is any particular specification of what the  
23 charges are supposed to be. That's a decision that  
24 the provider makes.

25 Q. Putting aside what the specific dollar amount

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1 that may be reported would be, conceptually do you --  
2 did you, while you were working for Home Infusion,  
3 have any understanding of the type or the nature of  
4 the information that was requested by Medicare on a  
5 claim form submission?

6 A. Sure.

7 Q. And what was your understanding?

8 A. Well, there's about probably 50 different  
9 pieces of data on a claim form, so --

10 Q. Okay. Let's narrow it --

11 A. -- which ones do you have questions about?

12 Q. Let's narrow it down to price elements or  
13 charge elements or cost elements pertaining to drugs.

14 A. Okay.

15 Q. I'm sorry. Do you need the question back?

16 A. Yeah. The question -- the question is --

17 Q. What -- what understanding, if any, did you  
18 have of the type of information that Medicare  
19 requested on its claim form with regard to charges or  
20 prices of drug products?

21 A. Medicare would -- where a drug product was  
22 being billed, Medicare would expect the provider to  
23 submit charges to Medicare.

24 Q. And what does charges mean?

25 A. Charges would be usual and customary price.

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1 Q. Where did you get the notion that charges  
2 meant usual and customary price?

3 A. I was learning the business at the time, you  
4 know. Where did I pick that up specifically, I can't  
5 recall. I understand a lot of that a whole lot better  
6 now than, perhaps, I did then.

7 Q. At the time that you were working in the Home  
8 Infusion division of Abbott, was that simply something  
9 that was already programmed into the database that you  
10 didn't give a lot of thought to?

11 MR. COLE: Object to the form.

12 Q. (BY MS. THOMAS) Or did somebody outright  
13 tell you that what was requested was U&C?

14 A. It was an established procedure that was an  
15 integration of the information in the CHIP system and  
16 the compilation of it in order to produce it into an  
17 understandable claim by the reimbursement department.  
18 It was certainly something that was in process when I  
19 got there.

20 Q. Do you ever recall any discussion while you  
21 worked in the home infusion business at Abbott of what  
22 Medicare meant when it requested information about  
23 charges pertaining to drug products?

24 A. I don't.

25 Q. Did anyone ever point out to you anything --

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1 any support for the notion that Medicare was looking  
2 for providers to report a U&C?

3 A. Somewhere along the line I certainly picked  
4 that up. So does that mean somebody told me that? I  
5 suppose. That's the best answer I can give you.

6 Q. So perhaps someone told you or perhaps you  
7 just saw that that's what was entered into the system?

8 MR. COLE: Object to the form.

9 A. You know, I wasn't involved in the  
10 establishment of the U&C prices that was entered into  
11 the system, so perhaps someone told me that at some  
12 point.

13 Q. (BY MS. THOMAS) I just want to make sure  
14 that we're on the same wavelength here. I'm not  
15 asking so much how a usual and customary price was  
16 determined for any given product --

17 A. Uh-huh.

18 Q. -- but whether the information that was  
19 sought by Medicare was a usual and customary price  
20 rather than some other price construct. Did you  
21 understand my question that way?

22 A. You know, I came in, I knew nothing about  
23 reimbursement, period, in this business. It hadn't  
24 been my field. I was trained a lot by Shellie  
25 Bronson. I was trained and educated by Ginny Tobiason

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<p style="text-align: right;">Page 471</p> <p>1 in particular. You know, I would read things. I  2 don't actually ever recall reading something in this  3 particular area on it. And somewhere along the line I  4 guess I realized that the practice was to have a usual  5 and customary pricing. That's what a healthcare  6 provider would do and that was what was submitted to  7 Medicare at the time.  8 Q. And that was true whether the claims that  9 Abbott was submitting or assisting in submitting were  10 in any of the three categories that you talked about  11 before, the Abbott pharmacy or the Abbott submissions  12 for customers. I can't remember the third one.  13 A. Well, I would say that was true in any  14 category, yes.  15 Q. Now, did you have any understanding -- any  16 awareness while you worked for Home Infusion that the  17 usual and customary charge that was being filled in on  18 these forms was often not the same as the price that  19 the customer had paid to acquire the drug product?  20 MR. COLE: Object to the form.  21 A. Well, in this typical model for the product  22 that was Abbott product there was this consignment  23 inventory practice and then the ultimate reimbursement  24 to Abbott for products and service was done through  25 the revenue share.</p>	<p style="text-align: right;">Page 473</p> <p>1 still pay at the time the full amount of the charges.  2 It was called traditional indemnity insurance.  3 Sometimes they would have caps, sometimes they  4 wouldn't. So for those cases any healthcare provider  5 would certainly want to maximize their profits, if  6 they're a for-profit provider, at least, and so there  7 would be a relationship there for sure.  8 Q. (BY MS. THOMAS) With regard to claims that  9 would be submitted to Medicare, did you have any  10 understanding whether there was any actual financial  11 or business significance to the U&amp;C number that was  12 filled in on the Medicare form?  13 A. For drugs?  14 Q. Yes, for drugs. I'm sorry.  15 A. I am trying to sort out what I know now and  16 what I knew then. Okay.  17 Q. Take your time.  18 A. And I don't know that -- I have to preface to  19 say I can't tell you this for sure what I knew then.  20 You know, what I did know then was that Medicare's  21 allowance would be established for a drug. I knew  22 that Medicare would pay up to the maximum of the  23 allowance less patient co-pay. The allowance is sort  24 of considered inclusive of patient co-pay. So I knew  25 that Medicare would pay the maximum of the allowance</p>
<p style="text-align: right;">Page 472</p> <p>1 So, you know, on an individual product  2 line item basis there wasn't really a direct relation  3 that you could establish that says just for this  4 product Abbott got this much because of the  5 arrangement on the revenue share. Overall on the  6 business, if you brought it down to a claim and looked  7 at this particular charge line, then -- then, sure,  8 the reimbursement could be identified to the product.  9 But how did that relate to what the  10 customer paid for that individual drug? That -- you  11 know, to my understanding, that was -- that was part  12 of the total deal between Abbott and the client. It  13 had to do with this total revenue share. And there  14 wasn't really any sort of accounting to apply this to  15 the particular drug itself to speak of and -- nor was  16 there, that I understood, for the client any  17 particular accounting for what the client may have  18 paid for the drug because it wasn't thought of in that  19 way. That's the best that I understood it.  20 Q. (BY MS. THOMAS) Did you have any perception  21 whether the U&amp;C price that was being listed on the  22 Medicare forms had any real significance in the  23 business operations of either Abbott or its customers?  24 MR. COLE: Object to the form.  25 A. There were some payers that actually did</p>	<p style="text-align: right;">Page 474</p> <p>1 or the charges the provider submitted. So if the  2 provider submitted charges that were less than the  3 allowance, Medicare would pay those charges, which  4 could be less. So to that degree there would be an  5 impact.  6 If the provider submitted charges that  7 were any more than the allowance, to whatever the  8 number is, if the provider was a participating  9 provider in Medicare or had filed a claim as an  10 assigned claim, which was almost always the case in  11 our business, it really didn't matter whether those  12 charges were 10 million dollars or -- and I'm saying  13 this a little facetiously, or -- or a hundred dollars.  14 If the allowance was 80, that's all you were going to  15 get from Medicare.  16 Q. What was your understanding while you worked  17 at Home Infusion of the -- not the specific dollar  18 amount for a drug product, but of the conceptual basis  19 of Medicare's allowance for payment of drug product?  20 MR. COLE: Object to the form.  21 A. This is another area where I can't really  22 sort out for you what I understood when. I certainly  23 know now that Medicare's allowance is based -- was --  24 well, still is, actually, for home infusion based on  25 an AWP-based figure. I know now that -- at that time</p>

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1 I believe it was. When did I -- you know, when did I  
2 actually come to understand that for Medicare, I'm not  
3 sure.

4 Q. (BY MS. THOMAS) So you don't recall whether  
5 you knew that while you were working for Home  
6 Infusion, that Medicare had an AWP-based system?

7 A. I -- I -- I don't recall -- well, while I was  
8 with Home Infusion? Oh, yes, I knew that when I was  
9 with Home Infusion. But whether I really came to  
10 understand that for Medicare when I was a  
11 reimbursement supervisor, that I'm not sure of.

12 Q. There's been reference earlier in your dep,  
13 either today or during the first day, to J codes in  
14 the Medicare context.

15 A. Uh-huh.

16 Q. Can you explain what a J code is?

17 A. Sure. A J code is a HCPCS code. It's in  
18 the -- the first of the five positions of the code is  
19 a J. J codes are assigned to drugs by the HCPCS  
20 administrators. So they represent drugs.

21 Q. Okay. And is a J code, to your  
22 understanding, generally used to cover a group of  
23 drugs that have specific NDC numbers?

24 A. It -- well, I can tell you certainly what I  
25 understand now and I don't think it's changed. So a J

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1 code -- a J code that identifies the drug because it  
2 actually has the name of the drug in it would -- in  
3 the case of a single-source drug would reflect one or  
4 more NDC codes that would be the NDC code coming from  
5 the single source, like a single manufacturer. They  
6 might be reflecting different sizes of the drug  
7 container or different strengths of it, you know,  
8 essentially packaging, dose, this type of strength.

9 So they could represent more than one NDC code, but it  
10 would be just basically the -- the conglomerate of NDC  
11 codes from a single source. If it was a multiple  
12 source drug, which we normally think of as generics,  
13 it could represent a lot of NDC codes.

14 Q. When you were working in the Home Infusion  
15 division of Abbott, do you recall how you knew what  
16 particular NDC numbers were considered part of a  
17 particular J code?

18 A. Well, actually, that was data that was set up  
19 on the item master file so that when you had a -- you  
20 know, your item master for a drug was the -- you know,  
21 an identifier in each item master record for the drug  
22 contained the NDC number for the drug. And we  
23 would -- the organization would figure out what the J  
24 code was and put that into the item master. And then  
25 the rest of it, for the purpose of claiming, happened

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1 rather automatically through the computer system.

2 We talked last time about special  
3 projects that I was on and there was an early one in I  
4 think 1994, which was to straighten out some of the  
5 data on the item master. And I think one of the  
6 elements of that was to get some of the J codes in  
7 there correct. That was an effort that was done. So  
8 that's how that was done.

9 Q. Okay. When you say the organization would  
10 figure out what the J code was, by "organization" you  
11 mean?

12 A. Abbott Home Infusion Services.

13 Q. Okay. So how did Abbott Home Infusion  
14 Services figure out what NDCs were included in a  
15 particular J code? I mean, was there a data source,  
16 was there a government publication?

17 A. To the best of my recollection, most of that  
18 was done by the contract marketing people, that is,  
19 the Home Infusion Services contract marketing people.  
20 And the way they certainly would have done it, is they  
21 would have looked at HCPCS references to look at the  
22 drug name. They would have looked at either  
23 manufacturer data or perhaps Redbook data or some  
24 other compendium to see for the NDC code what the drug  
25 name was and they would have said, "Oh, yeah. This

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1 drug name is this, therefore, that's what the J code  
2 is," and then put it into the system.

3 Q. So it's your understanding that there was not  
4 a clear delineation of what NDCs were in a  
5 particular -- there was not a clear delineation by the  
6 government or by any of the DMERCs of what NDC numbers  
7 were grouped together to form a particular J code?

8 A. I was not aware of a delineation like that,  
9 no.

10 Q. And it's -- and it's your understanding  
11 that -- that Abbott made the determination whether a  
12 particular NDC number for a drug that it manufactured  
13 fell within a particular J code?

14 A. Well, we're talking Abbott Home Infusion  
15 Services here. I'm not talking about any other area  
16 of Abbott.

17 Q. Okay.

18 A. Okay?

19 Q. Okay.

20 A. So Abbott Home Infusion Services determined  
21 what J code belonged to an NDC number in the CHIP  
22 system so that the claiming portion of it could work  
23 correctly. That's how it worked when I was at Abbott  
24 Home Infusion Services, to the best of my knowledge.

25 Q. You made reference in the first day of your

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<p style="text-align: right;">Page 479</p> <p>1 deposition to a publication called St. Anthony's 2 publication, publisher? 3 A. Okay. 4 Q. Something like that. Do you recall that? 5 A. Well, not really, but I would believe that I 6 said something to that because if someone asked a 7 question, yes. 8 Q. Can you explain what St. Anthony's publishing 9 is? 10 A. It's now called EngineX because the service 11 was acquired, but that was literally a book that 12 contained HCPCS codes and the descriptions of the 13 HCPCS codes. 14 Q. By "descriptions" you mean which NDC numbers 15 were included? 16 A. No. No, I don't mean that. 17 Q. Okay. What do you -- 18 A. Not at all. It would -- HCPCS code 1A, 1, 2, 19 3, 4 represents IV sets. That's what would be in it. 20 Q. And with regard to HCPCS codes that pertain 21 to drugs -- 22 A. Uh-huh. 23 Q. -- what type of description did this 24 publication have? 25 A. I'm sort of going to wing this and make it</p>	<p style="text-align: right;">Page 481</p> <p>1 NDC numbers fell within which J codes? 2 A. Sure. 3 Q. Okay. Is there anything else you can think 4 of? 5 A. No. 6 MS. THOMAS: If I could trouble you -- 7 MR. STETLER: Sure. 8 MS. THOMAS: -- to pull 3296. 9 MR. STETLER: You done with the last 10 one? 11 MS. THOMAS: Yes. 12 MR. STETLER: 3296. 13 MS. THOMAS: Through 3304, although I 14 don't really know if that's the whole document. 15 Q. (BY MS. THOMAS) Okay. You have been handed 16 a binder, which for present purposes I'm asking you to 17 look at the documents with the Bates label BR 03296 18 through 03304. And if you could just take a minute or 19 two to look at those sheets. 20 A. (Witness complies). 21 MR. COLE: Susan, do you have an extra 22 copy of that? 23 MS. ST. PETER-GRIFFITH: I do not. 24 MR. COLE: Okay. 25 MS. THOMAS: Perhaps I misunderstood. I</p>
<p style="text-align: right;">Page 480</p> <p>1 up, but HCPCS code J 1234 would represent, again, 2 Acyclovir .5 grams per unit. 3 MR. STETLER: Maybe next time you could 4 say, "I'm giving a hypothetical, instead of "I'm just 5 making this up." 6 THE WITNESS: Well, if you -- 7 MS. THOMAS: He said winging it. 8 THE WITNESS: If you had told me, I 9 would have brought one of the books with me and we 10 could have looked one up. 11 Q. (BY MS. THOMAS) Was this a -- 12 MR. STETLER: How many of those did you 13 keep? 14 MS. ST. PETER-GRIFFITH: There is one in 15 there. 16 MR. STETLER: Is there? 17 MS. ST. PETER-GRIFFITH: Yeah. 18 Q. (BY MS. THOMAS) Was this a publication that 19 Abbott subscribed to? 20 A. Abbott Home Infusion Services would have 21 bought a copy of the St. Anthony's book every once in 22 a while. I don't know whether they bought them yearly 23 or not. I don't recall that. 24 Q. So might that have been part of the 25 information base that Abbott used to determine which</p>	<p style="text-align: right;">Page 482</p> <p>1 thought this set of documents was just going to -- 2 MR. STETLER: Yeah. We got the set. 3 He's looking at it. 4 A. 3296 through what? I'm sorry. 5 Q. (BY MS. THOMAS) 3296 -- it's four or five 6 pages. 7 A. Through 3298? 8 MR. SISNEROS: 3204. 9 Q. (BY MS. THOMAS) I have through 304 (sic), 10 but probably my questions will pertain to that first 11 couple of pages, primarily. 12 A. I see where this is going now. Okay. 13 Q. Can you identify what Page 3296 -- and it 14 seems to go on -- it seems to be a three-page 15 attachment -- 16 A. Yeah, this was a document -- 17 Q. -- can you figure out what that is? 18 A. -- put together for drugs showing the 19 Medicare allowables, apparently updated in 1994, which 20 says based on median AWP, so that helps refresh my 21 memory. I guess that would mean that I did have some 22 knowledge at that time that the Medicare allowances 23 were -- had some basis of AWP involved in them and the 24 determination of them. And this shows the allowances 25 by certain drugs for the four DMERC regions at the</p>

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<p style="text-align: right;">Page 483</p> <p>1 time.</p> <p>2 Q. Do you have any idea who put together this</p> <p>3 document?</p> <p>4 A. My belief is it was put together by Shellie</p> <p>5 Bronson.</p> <p>6 Q. And do you have any understanding of where</p> <p>7 she would have gotten the information for this</p> <p>8 document?</p> <p>9 MR. COLE: Object to the form.</p> <p>10 A. I could only make educational speculation on</p> <p>11 that.</p> <p>12 Q. (BY MS. THOMAS) I'll take that.</p> <p>13 MR. COLE: Object to the form.</p> <p>14 A. I think she would have gotten it from the</p> <p>15 Medicare contractors, the DMERCs.</p> <p>16 Q. (BY MS. THOMAS) From the DMERCs?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Do you have any recollection of a document</p> <p>19 like this being put together on any regular basis</p> <p>20 within the Home Infusion Services area?</p> <p>21 A. I believe Shellie was doing that while she</p> <p>22 was still there and it was referenced by the</p> <p>23 reimbursement people. I think probably when Shellie</p> <p>24 left that that was no longer done, my thought right</p> <p>25 now.</p>	<p style="text-align: right;">Page 485</p> <p>1 back would not -- are not necessarily the same and</p> <p>2 sometimes that would be still a correct payment -- I</p> <p>3 don't know if I said this this morning, but I will</p> <p>4 now. Sometimes that would be still a correct payment</p> <p>5 coming back from a payer and sometimes it would be an</p> <p>6 indication of a mistake.</p> <p>7 I believe I've also said that the</p> <p>8 charges to Medicare would always be submitted with</p> <p>9 usual and customary charges and that the amount that</p> <p>10 the Medicare carrier would pay would be based upon the</p> <p>11 Medicare allowance, which would definitely be</p> <p>12 different than usual and customary charges. If I</p> <p>13 didn't say that, I'm saying it now.</p> <p>14 Q. Okay.</p> <p>15 A. Okay?</p> <p>16 MR. STETLER: You did.</p> <p>17 Q. (BY MS. THOMAS) Fair enough. And I believe</p> <p>18 you did say something along those lines.</p> <p>19 A. Okay.</p> <p>20 Q. Would this drug allowable matrix have been</p> <p>21 part of what allowed Abbott Home Infusion Services to</p> <p>22 figure out the difference between what it submitted as</p> <p>23 a U&amp;C and what it was -- it or its customer was likely</p> <p>24 to be reimbursed by Medicare?</p> <p>25 A. You know, I only supervised this area. I</p>
<p style="text-align: right;">Page 484</p> <p>1 Q. And when was that?</p> <p>2 A. I can estimate that. It should be '97.</p> <p>3 Q. What do you believe the reimbursement people</p> <p>4 would have used this for?</p> <p>5 MR. COLE: Object to the form.</p> <p>6 A. For Medicare payments. I think they may have</p> <p>7 used this as a reference at times when they were</p> <p>8 determining if the payment coming in was correct.</p> <p>9 Q. (BY MS. THOMAS) Okay. Might this also have</p> <p>10 been used -- you testified earlier that at least on</p> <p>11 occasion there was an effort made to try to figure out</p> <p>12 whether the amount that would ultimately be received</p> <p>13 in reimbursement would be similar to or the same as</p> <p>14 the amount that was submitted on a claim form. Do you</p> <p>15 remember that testimony?</p> <p>16 A. Not exactly, but why don't you go on.</p> <p>17 Q. Well, the -- the -- it was -- you talked</p> <p>18 about an effort made to figure out, you know, how much</p> <p>19 you might actually get versus what had been submitted</p> <p>20 and you talked about it being recognition, that the</p> <p>21 carrier might not pay exactly what was submitted. Do</p> <p>22 you recall that?</p> <p>23 A. We went through a lot of stuff this morning</p> <p>24 and I talked about the whole process. So I talked</p> <p>25 about that what you charged and what you would get</p>	<p style="text-align: right;">Page 486</p> <p>1 didn't actually do that work, so -- and I never did,</p> <p>2 so could I tell you yes or no that on a daily routine</p> <p>3 basis that the people that were responsible for</p> <p>4 determining if we were paid correctly used this chart?</p> <p>5 I really couldn't tell you that. And I just don't</p> <p>6 think I can answer it any better way to say it than</p> <p>7 that.</p> <p>8 Q. Do you have any understanding of whether</p> <p>9 having this information available would allow the</p> <p>10 people that were making that calculation to render at</p> <p>11 least an educated guess as to that calculation?</p> <p>12 A. My educated guesses are that people would be</p> <p>13 looking at the level of the payment working fairly</p> <p>14 fast. They would be looking to see that what was paid</p> <p>15 was reasonably close to what had already been</p> <p>16 determined on the system that would be paid. That,</p> <p>17 based also with experience they might have, would</p> <p>18 allow them to recognize outliers of what appeared to</p> <p>19 be clear, incorrect payments one way or the other.</p> <p>20 And that if that was the case, they would recognize</p> <p>21 it. And this was probably -- this could have been</p> <p>22 used as a reference for them to double-check on</p> <p>23 something when they recognize those outliers. That</p> <p>24 is an educated assumption. That's the best I can give</p> <p>25 you.</p>

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1 Q. Do you have any recollection whether  
2 information about Medicare's drug allowable was  
3 maintained within the CHIPs database?

4 A. I don't believe it was.

5 Q. Would it seem to you that that would have  
6 been useful information for someone to try to  
7 ascertain what, in fact, reimbursement would be?

8 A. Yes, it does seem like it would be useful,  
9 but I do not believe that we did that.

10 Q. Do you have any thought or recollection as to  
11 why that wasn't done?

12 A. My thought is that the system -- there were a  
13 lot -- the system was complex because reimbursement  
14 across multiple players was correct. They all have  
15 their different procedures for determining what they  
16 were going to pay you and it was very difficult to  
17 design a system to be specific to a payer because  
18 there was no normal operating way of doing things. So  
19 the system, to my recollection, was not designed  
20 specifically to record what the allowable would be and  
21 to use that in some way for determining that amount.

22 Q. Do you know how the people who were  
23 responsible for determining whether the reimbursement  
24 that was received was correct, do you know what --  
25 what information they used as a benchmark to try to

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1 figure out whether the reimbursement received was  
2 correct?

3 A. I think that they -- you know the answer is  
4 no, I don't. We'll just leave it at that.

5 Q. Well, do you have any idea?

6 MR. COLE: Object to the form.

7 MR. STETLER: You want him to guess? Do  
8 you want him to guess?

9 A. If you want another educated guess, I think I  
10 actually already answered it, but --

11 MR. COLE: I don't think anyone wants  
12 you to guess.

13 MR. STETLER: I do. I think somebody  
14 does.

15 MR. COLE: Not on this side of the  
16 table.

17 Q. (BY MS. THOMAS) The types of customers that  
18 Abbott Home Infusion Services had, could you generally  
19 describe what kind of businesses they were?

20 A. They generally were home infusion therapy  
21 pharmacy businesses.

22 Q. And did those home infusion therapy pharmacy  
23 businesses purchase drug products from Abbott  
24 commonly, as well as, perhaps, other manufacturers?

25 A. If they were Abbott Home Infusion Services

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1 clients, to the best of my knowledge the Abbott drug  
2 products that were purchased were done through the  
3 agreement between Abbott Home Infusion Services and  
4 those clients. And so, yes, they did.

5 Q. To your knowledge, did any of these home  
6 infusion pharmacy businesses purchase product from  
7 Abbott through its HPD or Alt Site divisions?

8 A. Not to my knowledge while they would be under  
9 contract with Abbott Home Infusion Services, no.

10 Q. So there was an effort made if -- if Home  
11 Infusion was working with these clients to have the  
12 drug product sales go through that Home Infusion  
13 Services relationship?

14 A. Yes, that's fair to say.

15 Q. Okay. Did clients sort of move back and  
16 forth between being clients of Home Infusion Services  
17 and simply being purchasers of Abbott's drugs through  
18 its other divisions?

19 A. Not routinely, no.

20 Q. Okay. Was there an effort made to  
21 essentially recruit clients from the H -- from the Alt  
22 Site division of Abbott to become Home Infusion  
23 Services clients?

24 MR. COLE: Object to the form.

25 A. No effort that I knew of.

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1 Q. (BY MS. THOMAS) How did Abbott get clients  
2 for its Home Infusion Services business?

3 A. That was a responsibility of the sales side,  
4 essentially, and I wasn't involved in that, so I  
5 cannot give you any specifics. I got involved after  
6 the contracts -- well, sometimes I got involved when  
7 the sale was being done. But beyond that, I wasn't  
8 part of that strategy or -- or tactics even.

9 Q. Did you ever hear or become aware of  
10 anything -- any kind of guidelines or policies that  
11 Abbott had with regard to approaching purchasers  
12 through its Alt Site division to become Home Infusion  
13 Services clients?

14 MR. COLE: Object to the form.

15 A. I never did.

16 Q. (BY MS. THOMAS) Do you have any  
17 understanding whether -- at least some number of the  
18 purchasers from Alt Site were the types of businesses  
19 that could have been signed up for Abbott Home  
20 Infusion Services?

21 MR. COLE: I'll object to the form.

22 A. I -- I guess I had the understanding -- I had  
23 the understanding then that Alternate Site had some  
24 customers that, in fact, were home infusion service  
25 pharmacy customers and they were not Abbott Home

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1 Infusion Services clients. So in theory could they --  
2 could they fit into our business model? Yeah. Did  
3 that answer your question?

4 Q. (BY MS. THOMAS) Uh-huh. Yes, it did,  
5 actually. Thank you. So do you have any  
6 understanding -- well, do you have any knowledge of  
7 whether Abbott attempted to market its Home Infusion  
8 Services business to those clients that could  
9 potentially have become -- or to those businesses that  
10 could potentially have become clients?

11 MR. COLE: Object to the form.

12 A. I don't have any understand that Abbott did  
13 or did not.

14 Q. (BY MS. THOMAS) And do you have any  
15 understanding of whether there was any kind of policy  
16 saying either to try to do that or to try to avoid  
17 that?

18 MR. COLE: Object to the form.

19 A. I have no understanding of that.

20 Q. (BY MS. THOMAS) Did you ever hear anyone  
21 talk about any possible conflict on Abbott's part in  
22 terms of providing the Home Infusion Services  
23 consulting that it provided?

24 MR. COLE: Object to the form.

25 A. No. No. I will say no.

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1 Q. (BY MS. THOMAS) Did anyone ever talk about  
2 the notion that certain businesses that were  
3 purchasers through Alt Site might feel that Abbott's  
4 pharmaceutical business -- its pharmacy businesses,  
5 I'm sorry, were competing with those Alt Site  
6 purchasers?

7 A. I can tell you that my understanding of the  
8 history of the business unit before I came was that  
9 originally Abbott had entered the home infusion  
10 business on our own as just an Abbott entity and that  
11 the business unit realized that the company was  
12 competing with its hospital customers, who also were  
13 interested in being in the home infusion business. So  
14 there was some sense of competition there.

15 And that led to a business strategy  
16 change, as I understood it, again, before I came  
17 there, for Abbott to primarily be looking for  
18 customers, Abbott Home Infusion Services, that were  
19 hospital customers that were starting up, or at least  
20 to get involved with them in helping out with their  
21 home infusion business. Their home infusion  
22 businesses.

23 In terms of competition, you know, the  
24 other aspect of competition, which maybe what you're  
25 asking, was, you know, Ace Home Infusion Service was

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1 not an Abbott client, but they were being supplied,  
2 perhaps, by Abbott Alternate Sites with product. And  
3 did they view the Abbott Home Services -- Home  
4 Infusion Services as competition in the marketplace,  
5 I -- I never heard that one way or the other.

6 Q. (BY MS. THOMAS) If you would turn, sir, to  
7 Page 3299. And the first sentence in that paragraph  
8 there says, "Region B has provided us with an update  
9 as to the Fee Screens for Drugs."

10 A. Uh-huh.

11 Q. Do you know what fee screens are in that  
12 context?

13 A. That would be the fee schedule allowance.  
14 Again, it would be what Medicare would pay. They  
15 would pay up to a maximum amount of which the patient  
16 co-pay would be a portion of that amount, assuming  
17 that the charges submitted to them were higher than  
18 that allowance.

19 Q. So you believe that to be referring to the  
20 drug allowable matrix that -- that we've been looking  
21 at and, indeed, that appears to be attached to that?

22 A. Yes, uh-huh.

23 Q. Okay. Were you aware of any information that  
24 Abbott received from anyone that itemized what NDC  
25 numbers Abbott's, or otherwise, were included in

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1 particular J codes?

2 A. I was not aware of anything like that.

3 MS. THOMAS: I would like to mark --  
4 what exhibit number are we up to?

5 THE REPORTER: 1390.

6 MR. STETLER: Done with this, Counsel?

7 MS. THOMAS: Yes. Sorry. Thank you.

8 MR. STETLER: And I guess this one, too.  
9 We ended a long time ago.

10 MS. THOMAS: I believe so.

11 MS. ST. PETER-GRIFFITH: Wait, wait,  
12 wait, wait, wait, wait. Is that one -- which one is  
13 that?

14 MR. STETLER: Oh, you're going to need  
15 it back again.

16 MS. ST. PETER-GRIFFITH: I'm going to  
17 need it back.

18 (Discussion off the record)

19 MS. THOMAS: I would like to ask to have  
20 the court reporter mark, please, as Exhibit 1390 a  
21 two-page document bearing two sets of Bates number,  
22 TXABT 42025 and 26 or CAABT 006782 and 83.

23 Q. (BY MS. THOMAS) And I would ask you, sir, if  
24 you could take a look at this document --

25 A. At this?

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1 Q. -- as soon as it's marked. Yes. She's  
2 probably got to mark it first.

3 MS. ST. PETER-GRIFFITH: Susan, while --  
4 while he's looking at that, do you want to have our --  
5 our videographer change the tape?

6 MS. THOMAS: I believe we will do that.

7 Q. (BY MS. THOMAS) I would just mention to you,  
8 sir, when you look at this, this is a series of  
9 e-mails, and like most e-mails, it makes sense to read  
10 it from the bottom up because that's where it starts.

11 A. Okay.

12 THE VIDEOGRAPHER: We are off the record  
13 at 3:25 p.m. with the end of Tape Number 4.  
14 (Exhibit 1390 marked)  
15 (Recess from 3:25 to 3:35)

16 THE VIDEOGRAPHER: Stand by, please. We  
17 are back on the record at 3:35 p.m. at the start of  
18 Tape Number 5.

19 Q. (BY MS. THOMAS) Mr. Rodman, have you had an  
20 opportunity to look at the e-mails that have been  
21 collectively marked as Exhibit 1390?

22 A. During the break I just did.

23 Q. Okay. Thank you. Do these appear to be  
24 e-mails that reflect a conversation or communication  
25 that you testified about earlier today?

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1 A. Yes. I think I said earlier there were  
2 occasionally really outlayer-type stuff that I got  
3 involved with in trying to figure out AWP pricing and  
4 this is, I think, an example of that.

5 Q. Exactly. And I think you even refer to the  
6 fact that you believed you had had a communication  
7 with -- one or more times with Jerrie Cicerales.  
8 A. Rarely, but I think I indicated that, yes.

9 Q. It would appear, since Ms. Cicerales answers  
10 in the bottom -- on the bottom of Page 42025, the  
11 first page, when she says in an e-mail to you, "Here  
12 is the answer from First DataBank."

13 A. Uh-huh.

14 Q. That appears as though she's responding to  
15 something that you posed to her. Is that consistent?

16 A. It does -- it does appear that way.

17 Q. And it does not appear that the e-mail  
18 inquiry appears in this e-mail, for whatever reason,  
19 but -- but it seems that she's answering something.

20 A. It does appear that way.

21 Q. Okay. Do you have any recollection whether  
22 you addressed something specifically to her on this  
23 point or whether you just sent out a general  
24 information query to perhaps a whole unit of Abbott  
25 and she happened to be the one who responded?

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1 A. My recollection is somewhere along the lines  
2 somebody told me Jerrie Cicerales was the person to  
3 talk to when there were strange things happening on  
4 AWP that I got involved with from the Abbott Home  
5 Infusion Services responsibility.

6 Q. Do you have any recollection who might have  
7 told you that?

8 A. I don't at this point.

9 Q. Do you know in what division Jerrie Cicerales  
10 worked at this point in time?

11 A. I believe in the HPD Contract Marketing area.

12 Q. Now, I believe you testified -- well, strike  
13 that.

14 What is your recollection as to who  
15 reported AWP's to the pricing compendia that would be  
16 used in connection with Home Infusion Services'  
17 business?

18 MR. COLE: Object to the form.

19 A. For Abbott drugs?

20 Q. (BY MS. THOMAS) Yes. Sorry.

21 MR. COLE: Object to the form.

22 A. Somewhere along the line I developed an  
23 understanding that Abbott in the HPD Contract  
24 Marketing area provided some sort of a price to the  
25 drug compendiums.

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1 Q. (BY MS. THOMAS) Can you be any more specific  
2 about what type of price or when you developed this  
3 understanding?

4 MR. COLE: Object to the form.

5 MR. STETLER: Do you want him to look at  
6 the exhibit again? It's right there (indicating).

7 MS. THOMAS: He's welcome to look at the  
8 exhibit. You're even welcome to point him to  
9 something if he needs help.

10 MR. STETLER: It may help. "They both  
11 take."

12 A. Yeah. Well, I actually did see that. I  
13 actually don't recall that term. I mean, I can see  
14 that, apparently, I did see it on this e-mail at the  
15 time. I don't have any real recollection of that.

16 Q. (BY MS. THOMAS) I'm sorry, by that term --

17 A. Direct price. The term that Mr. Stetler just  
18 pointed to.

19 Q. Okay. So in Jerrie Cicerales's e-mail where  
20 she says to you, "They both," meaning First DataBank  
21 and Redbook, "take our," Abbott's, "direct price and  
22 they calculate AWP." You're saying you don't have a  
23 recollection of the term "direct price"?

24 A. I really don't.

25 Q. Okay. Do you recall asking anybody about

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1 this or being surprised at this information provided  
2 by Ms. Cicerales?

3 MR. COLE: Object to the form.

4 A. Not from this occurrence, no.

5 Q. (BY MS. THOMAS) Was there anything else that  
6 you knew about the reporting of prices at Abbott that  
7 caused you to be surprised by what Ms. Cicerales  
8 represented here?

9 A. I do remember an occurrence when I was told  
10 by someone in Abbott Home Infusion services that the  
11 pricing that -- some sort of price ultimately was used  
12 to be computed into an AWP was reported by Abbott --  
13 by Abbott HPD to the drug compendiums. I do recall  
14 being told that at one point and I had not known that  
15 before.

16 Q. And, to your knowledge, is that the same AWP  
17 that was utilized in Home Infusion Services' business?

18 MR. COLE: Object to the form.

19 A. I have -- I had not understood before I was  
20 told that and -- you know, and I was just told that.  
21 I never did any follow up, so what really happened, I  
22 just remember being told it. I -- I was told that  
23 there was a figure that was provided to the drug  
24 compendiums and that that somehow ended up being an  
25 AWP that would be reported by the drug compendiums

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1 through a -- through a mathematical formula. But  
2 beyond that, I don't -- you know, the specific of what  
3 price was reported, my memory of that is pretty hazy  
4 at this point. But I do recall being surprised by it  
5 because it was not what I thought was how the industry  
6 worked up until then.

7 Q. (BY MS. THOMAS) And in your last answer when  
8 you say you recall having been told that a figure was  
9 provided to the compendia that was then calculated  
10 into an AWP, or something like that --

11 A. Uh-huh.

12 Q. -- the figure provided -- what you were told  
13 was that the figure that was provided was provided by  
14 Abbott?

15 A. Uh-huh.

16 Q. Okay. And do you have any reason to believe,  
17 however, that -- whatever price was provided by Abbott  
18 to the compendia that was calculated into an AWP, do  
19 you have any reason to believe that that price is any  
20 different than the AWP that was referred to and used  
21 within Abbott Home Infusion Services?

22 A. I have no reason to believe that it would be  
23 different.

24 Q. And do you believe that it was the same AWP?

25 MR. COLE: Object to the form.

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1 A. These compendia had -- you know, what they  
2 did was beyond my scope of knowledge. I think in  
3 general it was beyond the scope of a lot of providers'  
4 knowledge, at least. I have no reason to believe that  
5 they did any -- at this point, at least, originally I  
6 had an entirely different impression of what they did,  
7 but I have no reason to believe that they would have  
8 done any particular further changing of it. So, you  
9 know, I -- when I learned that, I thought it was a  
10 rather mathematical mechanical function that was based  
11 upon some sort of price that was reported by Abbott to  
12 the drug compendia and that's essentially what I  
13 remember being told at one point.

14 Q. (BY MS. THOMAS) And it was your  
15 understanding that the calculation of an AWP, that  
16 that was the same AWP in the Alt Site business world  
17 as it was in the Home Infusion Services business  
18 world; is that correct?

19 A. There weren't multiple AWP's, so that would be  
20 correct.

21 Q. Okay. Now, when you say you were surprised  
22 because it wasn't what you had thought to be the case,  
23 could you elaborate on that?

24 A. To me simply as at least a B grade  
25 intelligent person, when I first got involved in this

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1 aspect of the field, I thought that average wholesale  
2 price was probably based on some sort of statistical  
3 sampling of a price that would be the amount that the  
4 drug could be -- would be sold for at a wholesale  
5 price as being somewhat different from retail price,  
6 whatever that meant. And I just -- this was a Bruce  
7 Rodman assumption just from the name. That it was --  
8 these drug compendiums had something in place where  
9 they were getting sampling of pricing and then they  
10 were doing some sort of averaging and that ended up  
11 being an AWP. That's not because anybody ever told me  
12 that. It's just what I assumed.

13 MS. THOMAS: Okay. Do we have a clean  
14 copy of Exhibit 1316 that was marked in the first day  
15 of his deposition available?

16 MS. ST. PETER-GRIFFITH: What is it?

17 MR. STETLER: While you're looking for  
18 that --

19 MS. THOMAS: I think it may be -- there  
20 may be one right there in the transcript. At the  
21 beginning.

22 MS. ST. PETER-GRIFFITH: At the  
23 beginning?

24 (Discussion off the record)

25 Q. (BY MS. THOMAS) Mr. Rodman, you've been

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1 handed a notebook that includes the page BR 02422,  
2 which was previously marked as Exhibit 1316 in the  
3 first day of your deposition. And you testified  
4 generally that you think you would have received a  
5 copy of this because you would have been considered  
6 reimbursement personnel at the time. Is that still  
7 consistent with your recollection?

8 A. I think I remember, uh-huh.

9 Q. If you would look, sir, at the two lists of  
10 prices or two columns of prices.

11 A. Uh-huh.

12 Q. One of which is headed "AWP" and one of which  
13 is headed "List Price."

14 A. Uh-huh.

15 Q. And I will represent to you, sir, having done  
16 the math, that the list prices are all 1.15 times the  
17 AWP that's indicated in handwriting on this document  
18 for the first price and I will represent to you that  
19 it is also true for all the rest of them.

20 A. Okay.

21 Q. Do you have any understanding -- let's --  
22 let's go back in time to '96 when -- when you probably  
23 received this document. Did you have any  
24 understanding of there being a relationship between  
25 Abbott's list prices and AWP's?

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1 A. These are Abbott Home Infusion Services list  
2 price that's entirely different from whatever you or I  
3 might consider to be HPD, or in this case, actually,  
4 it's a TAP product. TAP list prices. So I want to  
5 make that very clear.

6 Yes, I did have an understanding that  
7 the way that Abbott Home Infusion Services list prices  
8 for that business unit for a drug were -- that they  
9 were based upon AWP, as you see in this example.

10 Q. And the list prices that are here are the  
11 same as what you have referred to throughout this  
12 deposition as usual and customary --

13 A. Yes.

14 Q. -- prices?

15 A. Uh-huh.

16 Q. Do you have any understanding of who  
17 determined that list prices for these products would  
18 be set at 1.15 times AWP?

19 A. I believe that that would have been  
20 determined by the Contract Marketing department of  
21 which Lynn Leone was a member of.

22 Q. Do you have any understanding whether if that  
23 is the way a list -- pardon me. If that is the way  
24 usual and customary price is calculated, whether, in  
25 fact, that usual and customary price is, in fact, a

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1 usual or customary price?

2 MR. COLE: Object to the form.

3 A. That price was the price that would be  
4 charged to an insurance company and the patient for  
5 whatever co-pay in cases where there was not a  
6 specific managed care agreement to do otherwise.

7 That's the general answer. That would be -- you know,  
8 I -- I like to describe that as an arm's-length

9 transaction, meaning there's no formal agreement to  
10 have any sort of different type of discounting. So if  
11 there isn't any sort of an agreement, then, in fact,

12 this organization's price for the Lupron Depot 7.5 mg  
13 is going to be \$570.69. And that's what's going to be  
14 billed to the insurance company or, if you will, the  
15 insurance company and the patient.

16 Q. (BY MS. THOMAS) Do you have any  
17 understanding whether that was the usual price paid by  
18 customers?

19 MR. COLE: Object to the form.

20 A. In general either through -- I'm talking,  
21 really, commercial insurance here now. Are you asking  
22 for commercial insurance or do you want to go to  
23 Medicare? Things are different.

24 Q. (BY MS. THOMAS) I'm actually not asking what  
25 insurance would pay, but rather what customers

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1 purchasing Abbott's product would pay.

2 A. Oh, customers purchasing Abbott's product.  
3 Customer meaning like a home infusion entity?

4 Q. Uh-huh.

5 A. Oh, I don't think there's any particular  
6 relationship there. That's not -- that's not what  
7 this was for.

8 MR. COLE: I'll assert the same  
9 objection. Objection to form.

10 Q. (BY MS. THOMAS) But as to what this did  
11 represent, it's the answer you gave just a few minutes  
12 ago?

13 MR. COLE: Object to the form.

14 A. It represents the charges that would be  
15 billed to the combination of the health plan and the  
16 patient if there was no specific contractual agreement  
17 to charge the health plan/patient combination  
18 something different. Charges billed by the provider  
19 to the health plan patient.

20 Q. (BY MS. THOMAS) Is your understanding of the  
21 term "usual and customary" different in the context of  
22 Medicare or Medicaid?

23 A. No.

24 Q. And as far as you understand the list price  
25 identified on this form, that is only a list price in

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1 use within Abbott Home Infusion Services, correct?

2 A. Yes.

3 MS. THOMAS: I would like to ask the  
4 court reporter to mark as Exhibit 1391 a one-page memo  
5 or group of notes entitled "Notes From Meeting With  
6 Karla Krecklow on Reimbursement (7/12/01)." This may  
7 have been marked as an exhibit earlier in some  
8 deposition, but if it is, I don't know it. And I  
9 would just ask you to indulge me and ignore the fax  
10 legend showing it coming from my office. I guarantee  
11 you it did not originate from my office.

12 MR. SISNEROS: It was an exhibit. I'll  
13 try to find out. I think it's been an exhibit in two  
14 depositions. What's the date on that?

15 (Exhibit 1391 marked)

16 (Discussion off the record)

17 A. (Witness reviewing document).

18 MR. COLE: Counsel, can I just ask, I  
19 believe you say it didn't originate from your office.  
20 I don't see a Bates stamp on it. Is this included in  
21 the documents that came from Mr. Rodman?

22 MS. THOMAS: No, it is not part of  
23 Mr. Rodman's documents.

24 MR. COLE: Okay.

25 MS. THOMAS: It's a document that we've

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1 had and I think we may have used it in Mr. Balzer's  
2 deposition and I simply do not remember the  
3 explanation as to why there is not a Bates number on  
4 it.

5 MR. COLE: Okay. Is it your  
6 understanding that it was a document produced by  
7 Abbott?

8 MS. THOMAS: That is my understanding.

9 MR. SISNEROS: Yes.

10 MS. THOMAS: But I can't be more  
11 specific as to how it showed up without a Bates  
12 number.

13 (Discussion off the record)

14 Q. (BY MS. THOMAS) Mr. Rodman, do you believe  
15 you've ever seen this document before?

16 A. I don't believe I have.

17 Q. Do you know all the people listed as  
18 participants in this meeting?

19 A. I know them to some degree and some very  
20 well.

21 Q. Mr. Balzer and Lyjak were both salespeople or  
22 accounts -- account managers within Alt Site. Is that  
23 consistent with your recollection?

24 A. That they -- well, they may have been. I  
25 just -- I guess I knew them as -- in the marketing

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1 area, marketing really meaning sales area of Alternate  
2 Sites, yes.

3 Q. Okay. And --

4 A. The responsibilities they had, I -- I don't  
5 recall right now. And, you know, at one point I may  
6 have known, but I don't really know now.

7 Q. And Mr. Baker?

8 A. Mr. Baker, actually, I got to know him fairly  
9 well because when I first started at Abbott Home  
10 Infusion services he was one of the sales managers in  
11 the Home Infusion Services business unit for a couple  
12 of years, I would say. And that's why I know him  
13 fairly well, just from that experience. What role he  
14 was in at the time here, I'm not sure.

15 Q. Do you have any recollection whether he was  
16 still with Home Infusion Services?

17 A. He would not have been.

18 Q. Do you --

19 MR. SISNEROS: Excuse me. For the  
20 record, it appears to be Exhibit 481 of the Baker  
21 deposition.

22 A. He could have been general manager at the  
23 time of the Alternate Site business unit, actually. I  
24 think he probably was. That's a think.

25 Q. (BY MS. THOMAS) Okay. But you more or less

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1 believe that he was in Alt Site at this point, even if  
2 you don't recall --

3 A. I more or less believe he was in Alternate  
4 Site at this time. Ask Abbott.

5 Q. And Ms. Krecklow was in Home Infusion  
6 Services?

7 A. And she, of course, is who I knew the best  
8 and she was my boss at the time.

9 Q. Are you able to tell from having read these  
10 notes, which -- which have some detail about the  
11 content of this meeting, whether this is a subject  
12 matter that you had discussed with Ms. Krecklow or  
13 perhaps prepared her for in or about mid-2001?

14 A. I -- I -- I can see enough in here to know  
15 the general subject matter that would have triggered  
16 what appears to be documented in this meeting. I  
17 actually don't think that I was -- would have fed her  
18 much to prepare for this meeting. I might have. I'm  
19 seeing some references to per diem here, and,  
20 actually, I don't think they're correct as documented.  
21 But I do what -- I do know what the trigger would be  
22 and I believe I know who probably would have fed the  
23 information to Ms. Krecklow that she would have taken  
24 in.

25 Q. Well, you sure make it tempting for me to ask

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1 you who.  
 2 A. I believe that would --  
 3 Q. What the subject matter, what triggered it  
 4 and who. I would have asked you anyway.  
 5 MR. STETLER: The last guy we had  
 6 answered questions he wished he had been asked instead  
 7 of the ones he was. He asks his own questions. But  
 8 at least you answer the question. So who was it?  
 9 Q. (BY MS. THOMAS) At least rest assured I  
 10 would have asked you anyway.  
 11 A. You were going to ask me --  
 12 Q. You talked about --  
 13 A. You are going to ask me what the incident  
 14 was, too.  
 15 Q. You talked about a triggering event and then  
 16 you talked about a person.  
 17 A. Yeah. Yeah. The person would have been  
 18 Mr. Snuffer. And, again, I'm not saying --  
 19 Q. And the --  
 20 A. And, again, I'm not saying that I --  
 21 Q. And the weapon of choice, if we use your --  
 22 MR. STETLER: Lead pipe in the pantry.  
 23 A. I'm not saying that I didn't provide any  
 24 information to Ms. Kreklow, I may have, but -- and I'm  
 25 making an assumption that someone did specifically for

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1 this meeting. I don't really know that either, but  
 2 just as a general sense of what was going on here --  
 3 Q. Okay. And what is your sense of -- of what  
 4 was going on and what triggered --  
 5 A. This was --  
 6 Q. -- a meeting like this?  
 7 A. This was --  
 8 MR. COLE: I'll object to the form.  
 9 Q. (BY MS. THOMAS) I'll rephrase the question.  
 10 Based on your --  
 11 A. Okay. I'm going to have to tell you, this  
 12 could have been one of two, but I think it was one.  
 13 But I'm going to have to tell you honestly, it was one  
 14 of two. Sorry.  
 15 Q. Okay. What were the two -- what are the two  
 16 things that you think --  
 17 A. Well, there were two --  
 18 Q. -- most likely triggered this meeting?  
 19 A. There were two rather visible incidents at  
 20 that time --  
 21 MR. COLE: Object to the form.  
 22 A. -- one visible to the industry --  
 23 MS. THOMAS: What was my question?  
 24 MR. COLE: I was trying to get my  
 25 objection in after your question.

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1 A. In this time frame there were two visible  
 2 incidents. One was an industry visible incident. The  
 3 second was more of an Abbott -- Abbott customer  
 4 incident.  
 5 The OIG had done a study, federal OIG,  
 6 and had determined that average wholesale prices were  
 7 different than the drug compendiums. This is totally  
 8 my memory of it. And they had published a list of  
 9 what became known as -- at least by me, as OIG or  
 10 maybe DOJ AWP. I don't recall. And my recollection  
 11 is that when that list was published, that some of the  
 12 states Medicaid programs were going to adopt those  
 13 figures for reimbursement to providers when they were  
 14 paying on an AWP-based reimbursement. So that was one  
 15 incident. That was very visible throughout the  
 16 industry.  
 17 The other occurrence was -- and I -- my  
 18 recollection is this occurred after that. There was a  
 19 decision made by Abbott to change its pricing that  
 20 resulted in a lowering of AWP for some of the Abbott  
 21 Hospital Products Division drugs.  
 22 And the reason I remember that pretty  
 23 well was that that -- we've already talked about how a  
 24 fair amount of that reimbursement was based on AWP  
 25 and that that would, therefore, lower the amount of

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1 collections on these claims being billed by the Abbott  
 2 Home Infusion Services customers. And that was  
 3 something that was concerning our customers when that  
 4 occurred. Especially since Abbott Home Infusion  
 5 Services had the business relationship and then to  
 6 them it was perceived as Abbott changing the pricing  
 7 and lowering the pricing that would -- would lower  
 8 their revenues.  
 9 And that was a fairly big deal within  
 10 home infusion and trying to manage that from a  
 11 customer perspective. Mike Snuffer was quite  
 12 involved in some analysis on that at the time, I  
 13 recall, working for Karla Kreklow.  
 14 My guess is that this meeting probably  
 15 may have occurred at about the time that that was  
 16 being done. But it really could have been the first  
 17 event, which was the publication of the industry  
 18 DOGs -- DOJs. And you know what, if you check the  
 19 record on various dates of things, you can probably  
 20 figure out what the context was, but that's the best I  
 21 can tell you. I think it was one of those two.  
 22 Q. (BY MS. THOMAS) And it is your  
 23 recollection --  
 24 MR. STETLER: Is that all?  
 25 THE WITNESS: I'm sorry?

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<p style="text-align: right;">Page 515</p> <p>1 MR. STETLER: I'm kidding.</p> <p>2 THE WITNESS: That was it. That's all.</p> <p>3 Q. (BY MS. THOMAS) It is your recollection with</p> <p>4 regard to what you said about the second possible</p> <p>5 trigger, that Abbott's decision to change its pricing</p> <p>6 came in response to the publication of those DOJ AWP's?</p> <p>7 MR. COLE: Object to the form.</p> <p>8 A. I -- I -- I -- I -- you know, I was never</p> <p>9 told directly as to reasonings behind those changes of</p> <p>10 Abbott's pricing, so that would be a stretch for me to</p> <p>11 say it was in response to anything in particular.</p> <p>12 Q. (BY MS. THOMAS) So you believe there was a</p> <p>13 temporal proximity, but you couldn't say for certain</p> <p>14 if that's why Abbott made the changes?</p> <p>15 A. I was never involved in the decision-making,</p> <p>16 you know. You're in this area of -- you -- you know,</p> <p>17 you develop some beliefs based on hearsay types of</p> <p>18 things that you may have picked up and I believe that</p> <p>19 it had something to do with, at that time, AWP</p> <p>20 being -- becoming -- it was being scrutinized more.</p> <p>21 And so I do believe it had something to do with that.</p> <p>22 But can I tell you that somebody told me that</p> <p>23 directly? No, not really.</p> <p>24 Q. Is there anything you can point to that</p> <p>25 supports that conclusion that you reached, other than</p>	<p style="text-align: right;">Page 517</p> <p>1 A. I don't have --</p> <p>2 MR. COLE: Object to the form.</p> <p>3 A. -- a recollection. I mean, I can tell you</p> <p>4 what it wasn't. It certainly wasn't a formal</p> <p>5 presentation where somebody was in there standing up</p> <p>6 to a bunch of Abbott employees saying, "This is what</p> <p>7 happened." That I know. But beyond that, I don't</p> <p>8 have a recollection. It was probably one-on-one</p> <p>9 conversations.</p> <p>10 Q. (BY MS. THOMAS) Other than what you may have</p> <p>11 heard in these conversations about Mr. Sellers being</p> <p>12 opposed to the decision, do you have any other basis</p> <p>13 to conclude that he was opposed?</p> <p>14 A. I remember hearsay one other point of that.</p> <p>15 Someone told me that. I don't remember who. And it's</p> <p>16 hearsay. So whether it was really accurate, I don't</p> <p>17 know, but I can tell you what I remember.</p> <p>18 MR. STETLER: Well, she's going to ask,</p> <p>19 but don't worry whether it's hearsay or not because</p> <p>20 you don't even know what hearsay is. So if she says,</p> <p>21 "Did anybody tell you anything," just answer it and</p> <p>22 don't worry about it.</p> <p>23 THE WITNESS: Okay.</p> <p>24 MR. STETLER: The definition of hearsay.</p> <p>25 Most lawyers don't understand it.</p>
<p style="text-align: right;">Page 516</p> <p>1 the timing?</p> <p>2 MR. COLE: Object to the form.</p> <p>3 A. I mean, I -- there's some hearsay stuff that</p> <p>4 I recall, but I can't recall who told me that. If you</p> <p>5 want me to repeat hearsay, I can.</p> <p>6 Q. (BY MS. THOMAS) Yes.</p> <p>7 A. What I recall.</p> <p>8 Q. I would like you to tell me what you recall</p> <p>9 of the conversation on that issue.</p> <p>10 MR. COLE: Object to the form.</p> <p>11 A. Okay. My hearsay recollection is that</p> <p>12 somebody told me that that decision was made very high</p> <p>13 up in the corporation to change that pricing. And</p> <p>14 that Mike Sellers actually was in opposition to that,</p> <p>15 but it was above his head further. And hearsay-wise I</p> <p>16 heard it -- it went up to -- you know, near the top of</p> <p>17 the corporation in that decision being made.</p> <p>18 Q. (BY MS. THOMAS) Do you have any recollection</p> <p>19 of either who you heard that from or the context in</p> <p>20 which you heard it?</p> <p>21 MR. COLE: Object to the form.</p> <p>22 A. I do not.</p> <p>23 Q. (BY MS. THOMAS) I mean, do you believe it</p> <p>24 was sort of a casual, you know, water cooler</p> <p>25 conversation, as they say, or --</p>	<p style="text-align: right;">Page 518</p> <p>1 A. I remember some --</p> <p>2 MR. COLE: Object to the form.</p> <p>3 A. I remember someone telling me that</p> <p>4 Mr. Sellers was opposed to doing that because it would</p> <p>5 be an indication of Abbott having done something</p> <p>6 wrong.</p> <p>7 Q. (BY MS. THOMAS) Do you know what they were</p> <p>8 referring to that Mr. Sellers was concerned about?</p> <p>9 A. Having to do with pricing --</p> <p>10 MR. COLE: Object to the form.</p> <p>11 A. -- that somehow ended up to be published AWP.</p> <p>12 Q. (BY MS. THOMAS) Can you tell me everything</p> <p>13 you can recall about that conversation?</p> <p>14 A. I think I've told you everything at this</p> <p>15 point on that.</p> <p>16 Q. Do you have any recollection about who made</p> <p>17 the comment pertaining to Mr. Sellers?</p> <p>18 A. I don't.</p> <p>19 Q. Did you ever hear, other than a comment like</p> <p>20 that, any other evidence that Mr. Sellers was opposed</p> <p>21 to these changes?</p> <p>22 A. Not that I can recall.</p> <p>23 Q. Did you ever have an understanding at the</p> <p>24 time you heard the comments made about Mr. Sellers</p> <p>25 what somebody -- what the concern was about Abbott and</p>

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<p style="text-align: right;">Page 519</p> <p>1 its pricing?</p> <p>2 MR. COLE: Object to the form.</p> <p>3 A. Ask me that again, please.</p> <p>4 Q. (BY MS. THOMAS) At the time that -- that</p> <p>5 somebody made a comment about Mr. Sellers opposing the</p> <p>6 decision to lower the prices, in part because it could</p> <p>7 be an indication that Abbott had done something</p> <p>8 wrong --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- what understanding, if any, did you have</p> <p>11 about the nature of what Abbott might have done wrong?</p> <p>12 MR. COLE: Object to the form.</p> <p>13 A. Well, I knew from my own reading that AWP</p> <p>14 were being scrutinized and, you know, that my</p> <p>15 recollection is that -- that because they were being</p> <p>16 scrutinized, leading ultimately to situations like</p> <p>17 this, that, you know, it would be an indication that</p> <p>18 there was something wrong that Abbott had done and --</p> <p>19 in this area. But that's about as far as I can go.</p> <p>20 Q. (BY MS. THOMAS) Did it ever come to your</p> <p>21 attention that anyone else within Abbott opposed the</p> <p>22 decision to lower -- to lower the reported prices?</p> <p>23 MR. COLE: Object to the form.</p> <p>24 A. No, but that doesn't mean that there weren't</p> <p>25 people. But no.</p>	<p style="text-align: right;">Page 521</p> <p>1 reported prices by Abbott would have been of interest</p> <p>2 or concern to Alt Site?</p> <p>3 MR. COLE: Object to the form.</p> <p>4 A. I have an understanding of that.</p> <p>5 Q. (BY MS. THOMAS) Could you explain that,</p> <p>6 please?</p> <p>7 MR. COLE: Object to the form.</p> <p>8 A. Alternate Site had customers that were home</p> <p>9 infusion service providers, and also other customers.</p> <p>10 At least the Home Infusion Service providers, those</p> <p>11 are the ones that I know, did have a reimbursement</p> <p>12 that was based upon an AWP. So if there was going to</p> <p>13 be a significant change to AWP, that would be</p> <p>14 something that would impact the revenue that these</p> <p>15 Alternate Site customers would be getting from the</p> <p>16 insurance companies or the government that they bill</p> <p>17 to and that would be something that Alternate Sites</p> <p>18 should be interested in insofar as understanding where</p> <p>19 their customers are actually -- you know, how they're</p> <p>20 making the money that they should make.</p> <p>21 Q. (BY MS. THOMAS) Well, in terms of Alternate</p> <p>22 Site being interested in how its customers did</p> <p>23 business and how they made money, in your opinion</p> <p>24 would it have been advantageous for Abbott Home</p> <p>25 Infusion Services personnel to have shared their</p>
<p style="text-align: right;">Page 520</p> <p>1 Q. (BY MS. THOMAS) Okay. So you didn't hear</p> <p>2 about anybody else expressing opinion on that?</p> <p>3 A. No.</p> <p>4 MR. COLE: Object to the form.</p> <p>5 Q. (BY MS. THOMAS) Now, you indicated that one</p> <p>6 of your thoughts as to what might have triggered this</p> <p>7 meeting was that decision by Abbott to change the</p> <p>8 pricing and that that decision would lower collections</p> <p>9 in the Abbott Home Infusion Services business and, you</p> <p>10 know, potentially cause some customer consternation.</p> <p>11 A. I indicated that was one of two</p> <p>12 possibilities. The other may have been the</p> <p>13 publication of DOJ prices.</p> <p>14 Q. Okay. With regard to the -- the second</p> <p>15 factor that you identified, that -- that some of the</p> <p>16 customers within Abbott Home Infusion Services might</p> <p>17 have been upset about the lower reported prices, can</p> <p>18 you connect that for me to the idea of having a</p> <p>19 meeting with people from Alt Site?</p> <p>20 MR. COLE: Object to the form.</p> <p>21 A. I have no specific knowledge of this meeting.</p> <p>22 Q. (BY MS. THOMAS) Are you able to -- do you</p> <p>23 have an understanding, based on your years at Abbott</p> <p>24 and your knowledge of the type of business that Alt</p> <p>25 Site was in, as to why, if at all, these changes in</p>	<p style="text-align: right;">Page 522</p> <p>1 knowledge of home infusion businesses with Alt Site</p> <p>2 personnel?</p> <p>3 MR. COLE: Object to the form.</p> <p>4 A. I think it would help Alternate Sites</p> <p>5 understand their customers' businesses a little</p> <p>6 better, sure.</p> <p>7 Q. (BY MS. THOMAS) I mean, it almost seems</p> <p>8 self-evident, doesn't it?</p> <p>9 MR. COLE: Object to the form.</p> <p>10 A. It didn't happen very often that I know.</p> <p>11 Q. (BY MS. THOMAS) Do you have any idea why</p> <p>12 that didn't happen?</p> <p>13 A. Because we operated very independently and</p> <p>14 really did not work with their -- the two units really</p> <p>15 didn't work together particularly closely in any way.</p> <p>16 They had different business models. They were just</p> <p>17 managed differently.</p> <p>18 Q. But certain personnel went from one division</p> <p>19 within Abbott to another, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall ever suggesting to anyone that</p> <p>22 it would seem logical and helpful for the business</p> <p>23 expertise that was gathered within the Home Infusion</p> <p>24 Services business to be shared in some fashion with</p> <p>25 the Alt Site sales marketing people?</p>

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1 A. I don't recall that that was -- I mean, do I  
2 recall ever being told that that would be advantageous  
3 and we should be doing that periodically? No, I don't  
4 recall that.

5 MR. STETLER: I think her question was  
6 did you suggest.

7 A. Did I suggest?

8 Q. (BY MS. THOMAS) Yes.

9 A. Oh, I don't recall suggesting that.

10 Q. Well, I mean, did it ever occur to you while  
11 you were working there that, "Hey, we have people  
12 selling to customers just like the ones we're getting  
13 to know so well. We ought to tell them what we've  
14 learned and -- and help them in their sales and  
15 marketing effort"?

16 MR. COLE: Object to the form.

17 A. Not -- not -- certainly not as a primary or  
18 even a secondary function of my job responsibility. I  
19 talked earlier about how I talked about the  
20 standardization of coding in the per diem area. It  
21 occurred to me that that would be something that they  
22 probably ought to understand, but also it was tooting  
23 my horn a little bit, frankly, because it was an  
24 industry accomplishment. So in that instance I could  
25 have initiated that. But, no, not generally.

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1 Q. (BY MS. THOMAS) Do you have any recollection  
2 while you worked in the Home Infusion Services  
3 business of ever thinking that it might make sense for  
4 someone at Abbott to communicate expertise gained from  
5 Home Infusion Services to the people that were trying  
6 to sell to some very similar types of clients?

7 A. I don't.

8 MR. COLE: Object. He's answered that  
9 multiple times.

10 Q. (BY MS. THOMAS) Looking back at your time at  
11 Abbott, do you have any idea why that didn't occur to  
12 you?

13 MR. COLE: Object to the form.

14 A. The Home Infusion Services business unit  
15 operated in many ways as a small business. We were  
16 our own entity. We really didn't work with anybody  
17 else in Abbott in particular to achieve our  
18 objectives. So it was -- you know, call it a cultural  
19 thing, call it whatever, we had our objectives.

20 Q. (BY MS. THOMAS) And, again, did you --

21 A. I mean, frankly, in some ways we competed  
22 with them, so -- because some of -- you know. Their  
23 customers would have been our customers. And if it  
24 was their customers, then it would be through their  
25 profit line. If it was our customers, it would be

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1 through Home Infusion Services, so ...

2 Q. Again, do you -- do you have any recollection  
3 that that type of cross communication was discouraged?

4 A. I do not have that recollection.

5 Q. Now, you indicated with regard to these notes  
6 that you think there's a couple of things on them that  
7 are wrong. What jumped out at you?

8 A. "Medicare (Federal Aid Programs) have adopted  
9 reimbursement to Per Diem" is incorrect. That's the  
10 one that jumps out.

11 Q. You stated earlier in your answer that  
12 Mr. Snouffer was quite involved in some analysis about  
13 the decision made by Abbott to change its pricing?

14 MR. COLE: Object to the form.

15 A. I did state that earlier.

16 Q. (BY MS. THOMAS) Okay. Could you elaborate  
17 on what you're referring to?

18 A. Well, I was really not very involved in that  
19 because I was responsible for the CHIP system product  
20 management types of things at the time, but he was  
21 the -- the head person in the reimbursement at this  
22 time. And there was a concern in terms of managing  
23 the customers of what the impact might be of their  
24 revenues and, hopefully, their profitability,  
25 obviously. And he -- he was looking at that and I

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1 think he was running reports, and that sort of thing,  
2 to try and determine that so that the business unit  
3 could determine how best to manage the customer issues  
4 that it created.

5 Q. Do you recall if there was any written  
6 product generated by him or his staff?

7 A. I do not recall.

8 Q. Do you recall if there were any meetings  
9 addressing the topic?

10 A. I do not recall.

11 Q. To your knowledge, was Mr. Snouffer doing  
12 this analysis with respect to just Abbott Home  
13 Infusion Services or also with respect to other  
14 customers of Abbott's and thus the rest of Abbott's  
15 business?

16 MR. COLE: Object to the form.

17 A. No. It would be respect to the Abbott Home  
18 Infusion Services business relationships.

19 Q. (BY MS. THOMAS) Okay. As far as you know --

20 A. Only. As far as I know.

21 Q. Do you know whether anyone else at Abbott was  
22 evaluating what impact it might have on Abbott's  
23 business other than Home Infusion Services?

24 A. I have no specific knowledge of that.

25 Q. Now, when you identified the first factor

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1 that you thought could have been kind of a trigger for  
2 this meeting, you talked about the DOJ AWP.

3 A. Yes.

4 Q. And you reference an OIG study about AWP  
5 being different than what the drug compendia reported.  
6 Did I understand you correctly?

7 A. As I recall, that OIG study, the OIG looked  
8 at the prices for drugs that a wholesaler -- I'm  
9 sorry, that a provider was paying to buy them from the  
10 wholesaler and they compared that -- that with this  
11 figure called AWP and they concluded for many drugs  
12 that the actual price was significantly lower.

13 Q. And what, if any, discussion do you have at  
14 about that point in time of anybody talking about  
15 whether Abbott had, perhaps, done anything wrong or  
16 might be liable in some fashion for its reported  
17 prices?

18 MR. STETLER: Object to the form.

19 A. I don't remember any specific discussion.

20 Q. (BY MS. THOMAS) Now, you testified earlier  
21 that you were very involved in that EDI effort,  
22 correct?

23 A. Uh-huh.

24 Q. Through what outside entity primarily were --  
25 were those efforts coordinated?

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1 A. That changed over time, but when -- in the  
2 latter years when we ultimately led to the success of  
3 the standardization of per diem coding for home  
4 infusion from getting that set of codes into the HCPCS  
5 code list. The other entities involved with the  
6 National Home Infusion Association and other home  
7 infusion therapy providers that were involved with the  
8 Home Infusion EDI Coalition, and within NHIA.

9 Q. Now, NHIA is different than the National  
10 Alliance for Infusion Therapy?

11 A. Yes.

12 Q. Can you just describe very briefly what those  
13 two organizations are?

14 A. The National Home Infusion Association at  
15 that time was a hybrid, still are, but we changed a  
16 little now, but a hybrid of being a professional  
17 association and a trade association representing  
18 companies that were providers of home infusion  
19 therapy. Companies meaning licensed pharmacies.

20 Q. And the distinction you draw between  
21 professional association and trade association is  
22 what?

23 A. Professional association is more involved in  
24 the advancement of an individual professional field,  
25 such as a medical professional education, training,

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1 certification, research.

2 Trade association is oriented more  
3 towards advancing the business interests of  
4 organizations or individuals if they are individuals  
5 involved in a field.

6 Q. So a trade association would likely be  
7 involved with what's commonly referred to as lobbying?

8 A. Trade association may be involved in  
9 lobbying, yes.

10 Q. And the National Alliance for Infusion  
11 Therapy?

12 A. That, or N-A-I-T, NAIT, that was another  
13 association, if you want to call it that, that also,  
14 as I understood it then, was more of a trade  
15 association to represent home infusion therapy  
16 providers' business interests.

17 Q. To what extent was Abbott a supporter or  
18 participant in either of those entities?

19 MR. COLE: Object to the form.

20 A. For NAIT Abbott -- for quite some time Abbott  
21 Home Infusion Services, I believe, was a member of  
22 NAIT. I mean, I know we were. Abbott's Ross Products  
23 division was also a member of NAIT. I believe they  
24 still are, but I don't really know that.

25 Q. (BY MS. THOMAS) What --

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1 A. And -- I'm sorry.

2 Q. Were you finished?

3 A. What was your question?

4 Q. No. I didn't know if you were finished  
5 discussing Abbott's involvement.

6 A. I think I was going to move on to NHIA.

7 Q. Okay.

8 A. Okay. NHIA, at that time, was strictly an  
9 individual membership organization for providers, more  
10 like a professional society would be, such as a doctor  
11 might be a membership of a medical society. So Abbott  
12 itself was not a member of NHIA. I was, as an  
13 individual, a member of NHIA.

14 Q. Is -- how was NHIA funded?

15 A. Then?

16 Q. Yes.

17 A. Well, I wasn't on the NHIA management team at  
18 the time, so the best I can tell you is NHIA had funds  
19 coming from membership dues and from advertising in a  
20 magazine that they held and from annual conference  
21 that was held at the time and also a number of  
22 educational events that were held.

23 Q. Did Abbott pay your dues to NHIA?

24 A. To the best of my recollection, because of  
25 Bruce Rodman's voluntary work for the cause of coding

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<p style="text-align: right;">Page 531</p> <p>1 standardization, I was comp'd on dues. But that is  2 the best of my knowledge, so ...  3 Q. To your knowledge, did Abbott pay membership  4 dues for any other Abbott employees that belonged to  5 NHIA?  6 A. Not to my knowledge. Yeah. And, again,  7 that's the best of my knowledge. You know, I had a  8 number of comps from them over the years, so if we  9 paid membership dues, I stand corrected. I really  10 don't know. They were pretty small in amount.  11 Q. Did it appear to you that -- that Abbott was,  12 in certain respects, donating your services to NHIA  13 for some of the work you were doing?  14 MR. COLE: Object to the form.  15 A. Well, the Home Infusion EDI Coalition  16 actually was not a portion -- was not a unit within  17 NHIA until -- I think it was in 2002 that we did that.  18 And so it was really an independent coalition of -- of  19 home infusion providers of which NHIA was a member.  20 Did Abbott's Home Infusion Services  21 management have an understanding that I was  22 volunteering some services, some of my own time and  23 some of Abbott's time? Sure.  24 Q. (BY MS. THOMAS) To your knowledge, was there  25 anything else by way of services or money that Abbott</p>	<p style="text-align: right;">Page 533</p> <p>1 A. A collection of reports coming out of the  2 CHIP system that would have reported by payer category  3 sales, expected revenues, as well as actual  4 collections. That's the extent of my knowledge.  5 Q. And with respect to the revenue sharing  6 businesses, what documents would have -- if any, would  7 have reflected the percent of business reimbursed by  8 Medicare or Medicaid?  9 A. Well, there was a report that I'm now  10 remembering that was created on a spreadsheet using --  11 this is by client, each client, essentially, using  12 data coming from the CHIP system that would break out  13 by class of payor, as well as therapy revenues. It  14 could have been sales, actually. I guess it was  15 sales, expected sales. You know, sales shouldn't  16 ultimately become collections, but it was a sales  17 report that would -- was used monthly that would have  18 showed sales by month, by payer class and by therapy  19 and it would have shown the revenue share. I do  20 recall those reports.  21 Q. Now, to your knowledge, were any or all of  22 those reports destroyed when documents were destroyed  23 from the Home Infusion Services business?  24 A. I have no --  25 MR. COLE: Object to the form.</p>
<p style="text-align: right;">Page 532</p> <p>1 was contributing to NHIA?  2 A. Well, I -- I believe Abbott and Alternate  3 Sites would have had a booth in the exhibition hall at  4 the annual conference. So that's not really a  5 contribution, but that is a funding source. I believe  6 Abbott Alternate Sites' products would have been  7 advertising in the association's magazine.  8 Q. And what can you tell me about any support  9 from Abbott to NHIA? I'm sorry. We just talked about  10 NHIA. To NAIT?  11 A. NAIT? I know there was a membership fee and  12 that Abbott Home Infusion Services paid it, but I  13 didn't manage that.  14 Q. Do you know if there were contributions above  15 that membership fee?  16 A. I do not.  17 Q. Do you have any idea what documents one would  18 look at to ascertain what percentage of Abbott's Home  19 Infusion Services business was reimbursed by Medicare  20 or Medicaid?  21 MR. COLE: Object to the form.  22 A. You mean what still might exist somewhere  23 today or what would have been available then?  24 Q. (BY MS. THOMAS) What would have been  25 available then.</p>	<p style="text-align: right;">Page 534</p> <p>1 A. I have no knowledge of what happened to those  2 reports.  3 Q. (BY MS. THOMAS) What would be your educated  4 guess as to where one might look for them --  5 MR. COLE: Object to the form.  6 Q. (BY MS. THOMAS) -- at this point in time at  7 Abbott?  8 MR. COLE: Object to the form.  9 MR. STETLER: I thought you didn't want  10 him to guess?  11 MS. THOMAS: I'm sorry?  12 MR. STETLER: I thought you didn't want  13 him to guess.  14 MS. THOMAS: No. He didn't want him to  15 guess.  16 MR. STETLER: Point well taken.  17 MR. COLE: Did you get my objection?  18 THE REPORTER: Yes.  19 MR. COLE: I said it twice already.  20 THE WITNESS: So, Counselor, can I  21 answer this question?  22 MR. STETLER: Of course. Guess.  23 Q. (BY MS. THOMAS) Are you able to -- to give  24 me your most informed opinion?  25 A. I don't have a -- I don't have a very</p>

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1 informed opinion. I think I shouldn't on this one.  
 2 MR. STETLER: That's a first.  
 3 Q. (BY MS. THOMAS) But the reports that you  
 4 refer to would have been connected to the CHIPs  
 5 system?  
 6 A. Well, they either were produced directly by  
 7 the CHIP system or directly from data from the --  
 8 coming out of the CHIP system --  
 9 Q. And at the time those --  
 10 A. -- through manual processes.  
 11 Q. And at the time those reports were being  
 12 generated, what is your understanding of where, if at  
 13 all, they were maintained?  
 14 A. Well, a lot of them were also sent to the  
 15 clients, but they were maintained in the reimbursement  
 16 department in filing cabinets.  
 17 Q. To your knowledge, are they the same filing  
 18 cabinets that were emptied out when they brought down  
 19 the Home Infusion Services business?  
 20 A. You know --  
 21 MR. COLE: Object to the form.  
 22 A. -- that -- that emptying out to the degree  
 23 that it occurred would have been done by the people,  
 24 which there were a few, but people in reimbursement at  
 25 the time and I wasn't involved in that, so I have no

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1 more knowledge on it.  
 2 Q. The filing cabinets that you referred to, do  
 3 you have any idea whose they were, whose files they  
 4 would have been maintained in?  
 5 A. In the reimbursement department at the time.  
 6 I know who the final manager was.  
 7 Q. And that was?  
 8 A. And, actually, she had the title of  
 9 supervisor, I think. Janet Jones is her name.  
 10 MS. THOMAS: Let's take a short break  
 11 and we'll decide which of us is going to finish up.  
 12 MR. STETLER: All right.  
 13 THE VIDEOGRAPHER: We are off the record  
 14 at 4:33 p.m.  
 15 (Recess from 4:33 to 4:45)  
 16 THE VIDEOGRAPHER: We are back on the  
 17 record at 4:45 p.m.  
 18 EXAMINATION (CONTINUED)  
 19 BY MS. ST. PETER-GRIFFITH:  
 20 Q. Actually, Mr. Rodman, can I have you turn to  
 21 1971, please? Mr. Rodman, what is -- what is Box 24?  
 22 A. Box 24 refers, on surface, to the 1500 form,  
 23 which is where the line item -- line items that are  
 24 actually being billed to a payer are coded and -- and  
 25 the charges are put on it. In this particular case it

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1 refers to how the user would be manipulating the data  
 2 within the CHIP system to end up with a printed 1500  
 3 claim form in Box 24.  
 4 Q. Okay. At the bottom -- at the bottom, is  
 5 that a computer screen --  
 6 A. Yes.  
 7 Q. -- of -- you know, copy of the computer  
 8 screen that is Box 24?  
 9 A. A good portion of it, yes.  
 10 Q. Okay. Is there more information that's --  
 11 A. There might be.  
 12 Q. Okay. Do you see where it says "Original  
 13 Charge" and then "Billed Amount"?  
 14 A. Yes.  
 15 Q. Okay. Where does that information come from  
 16 in the CHIP system so that it can be put into Box 24  
 17 when a HCFA 1500 form is filled out electronically on  
 18 the CHIP system?  
 19 A. Well, there would be some calculations to try  
 20 and consolidate in the CHIP system charges and billed  
 21 amounts that were really identified by a whole -- a  
 22 whole bunch of items, drugs and products, like sets  
 23 and that sort of thing, into a particular claim line.  
 24 But conceptually it came from -- the original charge  
 25 here, actually, was this usual and customary equal

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1 list price that we've been talking about.  
 2 Q. Okay.  
 3 A. Okay. Just rolled up. And the billed amount  
 4 was the charges being submitted to the payer on the  
 5 claim.  
 6 Q. Okay. Now, if it's a HCFA 1500 form, who's  
 7 the payer?  
 8 A. It would be most payers.  
 9 Q. Most payers use this form?  
 10 A. Yes.  
 11 Q. Okay. If we could go to Page -- well, let me  
 12 ask you, when you say the list information, so would  
 13 that come from the item file?  
 14 A. As we talked about earlier, yes --  
 15 Q. Okay.  
 16 A. -- with -- we had that up -- was it upcharge?  
 17 Q. Upcharge --  
 18 A. Yes.  
 19 Q. -- issue, yeah. That's -- that's what I  
 20 wanted -- that's what I wanted to ask you.  
 21 A. Yeah.  
 22 Q. Okay. Now, if you could turn to Page 1978.  
 23 If you could look at the bottom. This is another --  
 24 what appears to be another visual of a -- of a CHIP  
 25 computer screen; is that right?

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1 A. Yes.  
 2 Q. Okay. And is this another version of the Box  
 3 24?  
 4 A. Yeah, it is. And, offhand, I don't know the  
 5 difference between the two, but if we need to -- but,  
 6 yes, it is.  
 7 Q. Okay.  
 8 A. It seems to be more detailed.  
 9 Q. Okay. If you could look where it says J  
 10 3370. Do you see that?  
 11 A. Yes.  
 12 Q. What does that mean?  
 13 A. That's a drug HCPCS code.  
 14 Q. Okay. Do you know which drug HCPCS code that  
 15 is?  
 16 A. No, I don't right now.  
 17 Q. Well, if I tell you that we went over this in  
 18 your first deposition and we ascertained that 3370 is  
 19 Vancomycin, will you take my word for it?  
 20 A. I will take your word for that.  
 21 Q. Okay. Do you see where it says "Line  
 22 Charges"?  
 23 A. Yes.  
 24 Q. Where is that information for the line  
 25 charges on the -- on this Box 24? Where -- where does

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1 that come from?  
 2 A. That would be the charges to be submitted to  
 3 the payer. It would be coming from -- it depends on  
 4 the payer, but for a -- for Medicare specifically, as  
 5 I had said, charges were always submitted to Medicare  
 6 based on your usual and customary prices. So these  
 7 would be coming, again, from that item file, possibly  
 8 with that upcharge as part of that.  
 9 Q. Okay. At any time, to your knowledge, when  
 10 you worked in reimbursement or in Home Infusion, when  
 11 Abbott reimbursement personnel would complete a Box 24  
 12 or a HCFA -- on a HCFA 1500 form, would they ever  
 13 evaluate -- when completing the line charge for a J  
 14 code drug, would they ever evaluate which was lower,  
 15 the AWP for the drug or the estimated acquisition  
 16 cost?  
 17 MR. COLE: Object to the form.  
 18 A. No.  
 19 Q. (BY MS. ST. PETER-GRIFFITH) Why not?  
 20 A. There is no reason for them to be even  
 21 interested in it.  
 22 Q. Sir, if you could go to Page 2058.  
 23 Oh, before we do that, the section that  
 24 we just went over, Box 24, did you participate in  
 25 drafting that?

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1 A. The document?  
 2 Q. Yeah. Feel free to review it.  
 3 A. I don't recall. It's possible.  
 4 Q. It's possible? Okay. Take your time.  
 5 A. Yeah. I can tell you it's possible and I  
 6 don't recall.  
 7 Q. Okay. If you could go to Page 2058. This is  
 8 a section of the CHIP Reimbursement User's Guide  
 9 dealing with Redbook. Is that correct, sir?  
 10 A. Seems to be.  
 11 Q. Okay. Sir, why would reimbursement personnel  
 12 ever need to -- in the Home Infusion unit ever need to  
 13 refer to Redbook?  
 14 MR. COLE: What page is that, Counsel?  
 15 MS. ST. PETER-GRIFFITH: 2058.  
 16 MR. COLE: Okay. Thank you.  
 17 A. The charges to be submitted to some payers  
 18 would -- rather than to be the usual and customary  
 19 pricing, they would be the contracted pricing, which  
 20 frequently for a drug was based on an AWP.  
 21 Q. (BY MS. ST. PETER-GRIFFITH) Is that for  
 22 payers who were not Medicare or Medicaid?  
 23 A. Yes.  
 24 Q. Okay.  
 25 A. So that's how the information from the

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1 Redbook was used to generate that type of pricing and  
 2 that's why the reimbursement people would have some  
 3 interest in that.  
 4 Q. Would they -- would there be any other reason  
 5 that you can think of why they would have an interest  
 6 in Redbook?  
 7 A. No.  
 8 Q. Moving right along. I'm done with these  
 9 documents. Sir, if I could ask you to put this  
 10 document in front of you once you've closed up the  
 11 book.  
 12 THE WITNESS: You get this, Mr. Stetler.  
 13 Q. (BY MS. ST. PETER-GRIFFITH) I would like to  
 14 re-visit an answer that you gave or follow up a  
 15 question -- follow up an answer that you gave when  
 16 Ms. Thomas was asking you about this particular  
 17 document. You indicated that the per diem reference  
 18 on these notes was incorrect?  
 19 A. Yes.  
 20 Q. What's incorrect about it?  
 21 A. Medicare did not then and does not now pay  
 22 home infusion therapy providers on a per diem basis.  
 23 Q. How does it pay?  
 24 A. It pays on a product basis. The drugs in the  
 25 products are coded with HCPCS and that's the way it

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1 pays.  
 2 Q. Sir, do you know who was responsible for  
 3 maintaining the provider numbers for Abbott  
 4 pharmacies?  
 5 A. What does "maintaining" mean?  
 6 Q. Meaning making sure that they're current and  
 7 that everything is copacetic and that the Abbott  
 8 pharmacy still can use their provider numbers.  
 9 A. The reimbursement department took care of  
 10 that.  
 11 Q. How would it take care of it?  
 12 A. The reimbursement department -- well, those  
 13 pharmacies were all in existence when I started,  
 14 but -- so I can't tell you who actually applied to get  
 15 those provider numbers. But if -- if -- if changes  
 16 had to be made because something that the National  
 17 Supplier Clearinghouse had on file, that, you know,  
 18 was something that you had to notify them of a change,  
 19 the reimbursement department would be responsible for  
 20 notifying the National Supplier Clearinghouse.  
 21 Q. And who would have that responsibility within  
 22 the reimbursement department?  
 23 A. Actually, it would -- it probably have been  
 24 done by a supervisor like myself when I was involved.  
 25 Q. Do you recall ever doing that?

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1 A. I recall some hellish instance.  
 2 Q. Okay.  
 3 A. Yeah.  
 4 Q. What happened?  
 5 A. It was total bureaucracy and I -- I don't  
 6 recall why we were doing this, frankly. Oh, I -- no,  
 7 I don't know. It could have been shutting down a  
 8 pharmacy. I think that's probably what it was. I'm  
 9 thinking. I'm sorry.  
 10 What I recall is it was incredible  
 11 bureaucracy and you had to get a signature way, way,  
 12 way, way up high in the corporation, which was  
 13 difficult to do in a big corporation like Abbott. And  
 14 you were -- all you were trying to do was to make some  
 15 fairly simple change to the National Supplier  
 16 Clearinghouse database. And, actually, I think it  
 17 probably was involved with shutting down one of the  
 18 pharmacies, to let the government know that you were  
 19 out of business.  
 20 Q. Okay. What was your involvement in shutting  
 21 down the pharmacies?  
 22 A. Handling that.  
 23 Q. Okay. Anything else?  
 24 A. No.  
 25 Q. Earlier when Ms. Thomas was -- was

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1 questioning you, you made reference to DOJ AWP's?  
 2 A. I did.  
 3 Q. Do you recall anything happening at Abbott in  
 4 response to the DOJ AWP's or when they were published?  
 5 MR. COLE: Object -- object to the form.  
 6 A. I don't recall anything specific. I -- I,  
 7 you know, generally recall there was some concern for  
 8 some of the reasons that we've talked about. The  
 9 Medicaid's adopted DOJ's AWP's, then there would be some  
 10 reduction of reimbursement, but it's just a general  
 11 concern.  
 12 Q. (BY MS. ST. PETER-GRIFFITH) Do you recall  
 13 whether senior management required a study among all  
 14 of the divisions to determine what impact the DOJ AWP's  
 15 would have on the company?  
 16 MR. COLE: Object to the form.  
 17 A. I do not recall that.  
 18 Q. (BY MS. ST. PETER-GRIFFITH) Do you recall  
 19 ever hearing about anything like that?  
 20 A. No.  
 21 Q. Who would be -- if a division-wide or -- or a  
 22 cross-divisional study was required by upper  
 23 management or senior management, who would have the  
 24 sort of clout within Abbott to do that or to require  
 25 that?

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1 MR. COLE: Object to the form.  
 2 A. I don't know.  
 3 Q. (BY MS. ST. PETER-GRIFFITH) Okay. Sir, did  
 4 you have any substantive disagreements with Virginia  
 5 Tobiason concerning the operation of the reimbursement  
 6 department?  
 7 MR. COLE: Object to the form.  
 8 A. Well, I believe I told you in the last  
 9 session that we had somewhat of a rocky relationship.  
 10 Did I have any major substantive arguments? No. I  
 11 think it was more in terms of personality type of  
 12 hang-ups.  
 13 Q. (BY MS. ST. PETER-GRIFFITH) Okay.  
 14 A. If you refresh me of something, maybe I'll  
 15 recall something, but I don't really.  
 16 Q. Well, this is a little bit beyond -- I'm --  
 17 I'm following up on your prior testimony.  
 18 A. Okay.  
 19 Q. I just wanted to find out whether you had any  
 20 disagreements with Virginia Tobiason concerning how  
 21 the reimbursement division operated?  
 22 A. You know, without saying that I was hand in  
 23 hand in agreeing with Virginia Tobiason on everything,  
 24 I would say that I didn't have substantial  
 25 disagreements, no.

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1 Q. You -- in testifying earlier when Ms. Thomas  
2 was asking you questions, you indicated that in terms  
3 of who was throwing out documents in Home Infusion at  
4 the time of its closure, that you thought that it  
5 would be whoever was left in -- in the -- in the Home  
6 Infusion department; is that accurate? You said there  
7 were very few people?

8 A. Yes.

9 Q. Okay. Who were the people?

10 A. Well, I had mentioned earlier Janet Jones was  
11 the -- she may have been the general manager, if not,  
12 it was supervisor of reimbursement, but she was the  
13 final person there. Jim Watson may have been there.

14 Q. Okay.

15 A. Karla Kreklow was there. I was there. There  
16 weren't many of us.

17 Q. And do you know who actually participated in  
18 the -- sort of cleaning of the Home Infusion?

19 A. Not at this point I don't, other than me, or,  
20 essentially, my office and a little bit beyond that, I  
21 guess.

22 MS. ST. PETER-GRIFFITH: I need to  
23 enlist Mr. Stetler to get a group of documents, which  
24 are BR 160 -- I'm going to need BR 168 and BR 205.  
25 And, Dave, this is his calendar.

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1 MR. STETLER: That makes it easier. I  
2 think. Great.

3 MR. COLE: What are the numbers?

4 MS. ST. PETER-GRIFFITH: 168 and 205.

5 MR. COLE: I might have them here.

6 MS. ST. PETER-GRIFFITH: Are they there?

7 MR. COLE: No. There's a gap.

8 MS. ST. PETER-GRIFFITH: Yeah, that's  
9 what -- that was my concern.

10 MR. STETLER: Actually a little broader.

11 MS. ST. PETER-GRIFFITH: It's a little  
12 book.

13 THE WITNESS: That's it.

14 MR. STETLER: Broader Number.

15 MS. ST. PETER-GRIFFITH: I think --

16 MR. STETLER: 155 to something.

17 MS. ST. PETER-GRIFFITH: Yeah.

18 MR. STETLER: You may have started later  
19 in terms of what you want to use, but that's 155.

20 MS. ST. PETER-GRIFFITH: Yeah. And I  
21 need -- I need him to turn to Page 168.

22 MR. STETLER: Okay.

23 THE WITNESS: Oh, within this?

24 MS. ST. PETER-GRIFFITH: And, Jeremy, if  
25 you need to look, go ahead.

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1 A. Okay. Oops. I'm there.

2 Q. (BY MS. ST. PETER-GRIFFITH) Okay.

3 MR. SISNEROS: You're not.

4 Q. (BY MS. ST. PETER-GRIFFITH) Hold on. I'm  
5 not.

6 A. You have that on computer?

7 Q. Yeah.

8 A. You scanned all this in? Oh, my God.

9 MR. STETLER: I think that's how we  
10 produced it, if I'm not mistaken.

11 MS. ST. PETER-GRIFFITH: No. You  
12 produced hard copies for this because I had to have it  
13 scanned. The other -- the other 38,000 pages were on  
14 two DVDs.

15 THE WITNESS: Let me guess. You're  
16 going to ask me about the HODAPP engagement party.

17 MS. THOMAS: Okay. Go for it.

18 MR. COLE: In Amsterdam?

19 MR. SISNEROS: Almost there.

20 MS. ST. PETER-GRIFFITH: Hold on --

21 MR. SISNEROS: Here we go.

22 MS. ST. PETER-GRIFFITH: -- Just a  
23 second.

24 MR. SISNEROS: Okay. This is it.

25 Q. (BY MS. ST. PETER-GRIFFITH) Sir, the entry

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1 at the top of -- or for Monday where it says 12:30, I  
2 believe, that's -- is that -- that's all your  
3 handwriting, correct? March 19th. Do you see that?

4 A. I see 11:30.

5 Q. 11:30. Okay.

6 A. Uh-huh.

7 Q. Can you just read what that says?

8 A. 11:30 at TAP. A. Greenthal, Barb Ronner,  
9 Ronner, R-o-n-n-e-r. A phone number, 582-4866. View  
10 training room.

11 Q. Okay. Do you have any recollection of having  
12 a meeting at 11:30 on March 19th of -- is it 2001 or  
13 2000?

14 A. It is.

15 Q. 2001 at TAP?

16 A. No. Well, I have no recollection of this  
17 meeting.

18 Q. Do you have any recollection of why you might  
19 have attended or been invited to attend a meeting at  
20 TAP?

21 A. No, not at this point. And, also, I want to  
22 clarify that this actually could have been simply the  
23 use of a conference room in TAP as opposed to having  
24 been a meeting with TAP people.

25 Q. Oh, okay. Well, Mr. Greenthal, is he a TAP

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1 person?  
 2 A. I don't believe he was at the time. I think  
 3 he was an HPD person.  
 4 Q. And the other person who's referenced, do you  
 5 know --  
 6 A. I don't recall who she was or is.  
 7 Q. Okay. Where was TAP in relation to your  
 8 office?  
 9 A. About five miles north on the toll road.  
 10 Q. Okay. If you could turn to Page 205, please?  
 11 Oh, do you know whether Mr. Greenthal  
 12 supervised Ms. Cicerale, Jerrie Cicerale?  
 13 A. I do not know. I do not know that.  
 14 Q. Well, I've got one more very quick question  
 15 for you and we've got five minutes left on the tape.  
 16 So if I could have you turn to Page 205.  
 17 A. Okay.  
 18 Q. And, sir, if I could ask you to read the  
 19 entry concerning a meeting with Mike Sellers?  
 20 A. 7:30 a.m. to 9:00 a.m., Mike Sellers' office,  
 21 reimbursement issues.  
 22 Q. Okay. Well, other than telling us that both  
 23 you and Mr. Sellers get to work really early, what do  
 24 you recall about this meeting with Mr. Sellers  
 25 concerning reimbursement issues?

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1 A. I have no recollection of that.  
 2 Q. Okay. Do you remember at all discussing any  
 3 reimbursement issues with Mr. Sellers?  
 4 A. Over my whole tenure there?  
 5 Q. Yeah.  
 6 A. Or at this meeting?  
 7 Q. Well, over your tenure there.  
 8 A. Of course.  
 9 Q. Okay. How many conversations did you have  
 10 with Mr. Sellers concerning reimbursement?  
 11 A. Well, he was the general manager of the unit  
 12 for the first approximately seven years that I was  
 13 there. So we all reported in to him and he had a high  
 14 interest in reimbursement because reimbursement is  
 15 very important to a home infusion therapy business.  
 16 Q. Did you discuss reimbursement issues with him  
 17 frequently?  
 18 A. Yeah, fairly frequently, uh-huh.  
 19 Q. Was he your supervisor in 2001?  
 20 A. By this time I believe that he would have  
 21 been back in HPD proper as the chief person in  
 22 Contract Marketing. Karla Kreklow was also reporting  
 23 to him at this time as the last director -- general  
 24 manager, in effect, of Home Infusion Services --  
 25 Q. Why --

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1 A. -- because this was in 2001.  
 2 Q. Do you know why he's discussing reimbursement  
 3 at that point in time?  
 4 A. No.  
 5 Q. Did Mister -- do you feel that Mr. Sellers  
 6 had an understanding, a detailed understanding, of  
 7 what the reimbursement department in Home Infusion  
 8 did?  
 9 MR. COLE: Object to the form.  
 10 A. A detailed understanding. I think he had a  
 11 conceptual understanding.  
 12 MS. ST. PETER-GRIFFITH: Okay. I have  
 13 no further questions at this time.  
 14 MR. SISNEROS: No questions.  
 15 MR. COLE: How much time do we have  
 16 left?  
 17 THE VIDEOGRAPHER: We have got two  
 18 minutes left.  
 19 EXAMINATION  
 20 BY MR. COLE:  
 21 Q. I just have a couple of quick questions for  
 22 you, Mr. Rodman.  
 23 Ms. Thomas asked you some questions  
 24 regarding the price drop in 2001 that Abbott took on  
 25 certain products. Do you remember that testimony,

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1 sir?  
 2 A. Was that when it was, in 2001? If you say  
 3 so, then okay.  
 4 Q. Generally you remember the questions she  
 5 asked you about --  
 6 A. Yes, uh-huh.  
 7 Q. -- about the price drop? And I just want to  
 8 make sure that the record is clear. You had no  
 9 involvement in Abbott's decision to lower prices; is  
 10 that right?  
 11 A. That is correct.  
 12 Q. And you never discussed the decision to lower  
 13 prices with Mike Sellers; is that right?  
 14 MS. ST. PETER-GRIFFITH: Object to the  
 15 form.  
 16 A. Not that I can recall.  
 17 Q. (BY MR. COLE) Let me ask you this: Did you  
 18 ever discuss Abbott's decision to lower prices with  
 19 Mike Sellers?  
 20 A. Not that I can recall.  
 21 Q. And did you ever have any involvement in  
 22 Abbott's decision to lower the prices on certain  
 23 products around that time period?  
 24 A. In making that decision?  
 25 Q. Yes.

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<p style="text-align: right;">Page 555</p> <p>1 A. No.</p> <p>2 MR. COLE: That's all I have.</p> <p>3 MR. STETLER: That was seven.</p> <p>4 MR. COLE: Questions?</p> <p>5 MR. STETLER: Uh-huh.</p> <p>6 MR. COLE: But I got it in --</p> <p>7 MS. THOMAS: In less than two minutes,</p> <p>8 hey.</p> <p>9 MS. ST. PETER-GRIFFITH: Nothing</p> <p>10 further.</p> <p>11 THE VIDEOGRAPHER: We are off the record</p> <p>12 at 5:07 p.m. with the conclusion of the deposition of</p> <p>13 Bruce Rodman.</p> <p>14</p> <p>15 (Deposition concluded at 5:07 p.m.)</p> <p>16 (Signature waived)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 557</p> <p>1 I, BRUCE E. RODMAN, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 BRUCE E. RODMAN</p> <p>7</p> <p>8</p> <p>9 THE STATE OF )</p> <p>10 COUNTY OF )</p> <p>11 Before me, , on this day</p> <p>12 personally appeared BRUCE E. RODMAN, known to me (or</p> <p>13 proved to me under oath or through</p> <p>14 ) (description of identity</p> <p>15 card or other document) to be the person whose name is</p> <p>16 subscribed to the foregoing instrument and</p> <p>17 acknowledged to me that they executed the same for the</p> <p>18 purposes and consideration therein expressed.</p> <p>19 Given under my hand and seal of office this</p> <p>20 day of , 2007.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 NOTARY PUBLIC IN AND FOR</p> <p>25 THE STATE OF</p>
<p style="text-align: right;">Page 556</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 PAGE LINE CHANGE REASON</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 558</p> <p>1 STATE OF TEXAS )</p> <p>2 COUNTY OF TRAVIS )</p> <p>3</p> <p>4</p> <p>5 I, CYNTHIA VOHLKEN, CSR #1059, do hereby</p> <p>6 certify that, pursuant to the agreement hereinabove</p> <p>7 set forth, there came before me on the 11th day of</p> <p>8 October, 2007, at 9:16 o'clock a.m., in the offices of</p> <p>9 Stetler &amp; Duffy, LLP, 11 S. La Salle, Suite 1200,</p> <p>10 Chicago, Illinois, the following named person, to-wit:</p> <p>11 BRUCE E. RODMAN, who was by me duly sworn to testify</p> <p>12 to the truth and nothing but the truth of witness'</p> <p>13 knowledge touching and concerning the matters in</p> <p>14 controversy in this cause; that such witness was</p> <p>15 thereupon examined under oath, and the examination</p> <p>16 transcribed by computer-assisted transcription by me</p> <p>17 or under my supervision, and that the deposition is a</p> <p>18 true record of the testimony given by the witness.</p> <p>19 I further certify that I am neither attorney</p> <p>20 nor counsel for, nor related to or employed by, any of</p> <p>21 the parties to the action in which this deposition is</p> <p>22 taken and, further, that I am not a relative or</p> <p>23 employee of any attorney or counsel employed by the</p> <p>24 parties hereto, or financially interested in the</p> <p>25 action.</p>

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1 That the amount of time used by each party at  
 2 the deposition is as follows:  
 3 Ms. Ann St. Peter-Griffith - 04:01  
 4 Ms. Susan Thomas - 02:03  
 5 Mr. Jeremy Cole - 00:01

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 7 IN WITNESS WHEREOF I have hereunto set my  
 8 hand on this 21st day of October, A.D. 2007.

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 13 Cynthia Vohlken, Texas CSR 1059  
 14 Expiration Date: 12/31/2008  
 15 Firm Registration No. 82  
 16 Fredericks-Carroll Reporting  
 17 7800 Shoal Creek Boulevard  
 18 Suite 200 W  
 19 Austin, Texas 78757  
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 22 Fax: (512) 345-1417

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Page 560

Page 562

1 NO. D-1-GV-04-001286  
 2 THE STATE OF TEXAS ) IN THE DISTRICT COURT  
 3 )  
 4 ex rel. )  
 5 VEN-A-CARE OF THE )  
 6 FLORIDA KEYS, INC., )  
 7 Plaintiffs, )  
 8 )  
 9 VS. ) TRAVIS COUNTY, TEXAS  
 10 )  
 11 ABBOTT LABORATORIES INC., )  
 12 ABBOTT LABORATORIES, and )  
 13 HOSPIRA, INC. )  
 14 Defendants. ) 201ST JUDICIAL DISTRICT  
 15 REPORTER'S CERTIFICATION  
 16 DEPOSITION OF BRUCE E. RODMAN  
 17 October 11, 2007

18 I, Cynthia Vohlken, Certified Shorthand  
 19 Reporter in and for the State of Texas, hereby certify  
 20 to the following:  
 21 That the witness, BRUCE E. RODMAN, was duly  
 22 sworn by the officer and that the transcript of the  
 23 oral deposition is a true record of the testimony  
 24 given by the witness;  
 25 That examination and signature of the witness  
 26 to the deposition transcript was waived by the witness  
 27 and agreement of the parties at the time of the  
 28 deposition.  
 29 That the amount of time used by each party at  
 30 the deposition is as follows:  
 31 Ms. Ann St. Peter-Griffith - 04:01  
 32 Ms. Susan Thomas - 02:03  
 33 Mr. Jeremy Cole - 00:01

1 That \$ is the deposition officer's  
 2 charges to the Plaintiffs for preparing the original  
 3 deposition transcript and any copies of exhibits;  
 4 That pursuant to information given to the  
 5 deposition officer at the time said testimony was  
 6 taken, the following includes counsel for all parties  
 7 of record:

8 MS. ANN M. ST. PETER-GRIFFITH,  
 9 Attorney for Plaintiff United States of  
 10 America  
 11 MR. ELISEO SISNEROS, Attorney for  
 12 Plaintiff State of California  
 13 MS. MARGARET MOORE, Attorney for Plaintiff  
 14 State of Texas  
 15 MR. JEREMY COLE,  
 16 Attorney for Defendants Abbott  
 17 Laboratories, Inc. and Hospira, Inc.

18 That a copy of this certificate was served on  
 19 all parties shown herein on October 22, 2007 and filed  
 20 with the Clerk pursuant to Rule 203.3.

21 I further certify that I am neither counsel  
 22 for, related to, nor employed by any of the parties or  
 23 attorneys in the action in which this proceeding was  
 24 taken, and further that I am not financially or  
 25 otherwise interested in the outcome of the action.

1 Certified to by me this 22nd day of October,  
 2 2007.

3  
 4  
 5 CYNTHIA VOHLKEN, TX CSR 1059  
 6 Expiration Date: 12/31/2008  
 7 Firm Registration No. 82  
 8 Fredericks-Carroll Reporting  
 9 7800 Shoal Creek Boulevard  
 10 Suite 200 W  
 11 Austin, Texas 78757  
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